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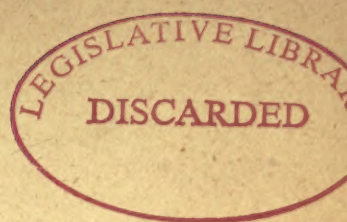
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THE  
HISTORY  
OF  
THE UNITED STATES,  
FROM  
THEIR COLONIZATION :

81-488  
TO

THE END OF THE TWENTY-SIXTH CONGRESS, IN 1841.

BY  
GEORGE TUCKER.

In Four Volumes.

VOL. I.

PHILADELPHIA:

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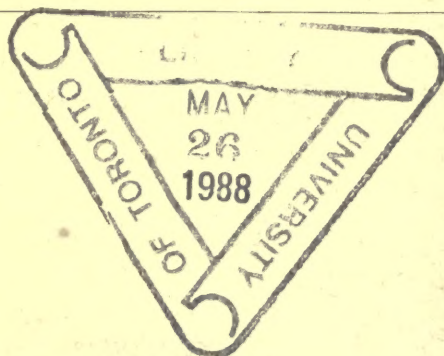
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## PREFACE.

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HAVING felt the liveliest interest in the present Government of the United States, almost from the time of its commencement in 1789, I began, some six or seven years since, to prepare materials for its political history. I thought that sufficient time had then elapsed to enable the world to decide on the competency of the American people to self-government, and on the merits of their confederate republic.

It could then be seen whether, in its relations with other States, its course was pacific, liberal, and just; and how far it could bear the burdens and hazards of war, when honorable peace was no longer attainable. The same retrospect might show us the consequences of those political dissensions from which no free people are exempt; teach us whether, in the party struggles for ascendancy, the public welfare is sometimes sacrificed or overlooked; whether, when such ascendancy is once attained, individuals, as well of the minority as the majority, are still secure in their rights of conscience, of speech, of action, and of property. We might also see whether measures which were not unjust were also wise; whether solid benefits have not been occasionally sacrificed to passion or prejudice, and small immediate

gains suffered to prevail against great permanent advantages.

Such are some of the objects of inquiry which give to history its dignity and utility. These, and such as these, the author's efforts, however inadequate, will aim to elucidate in the following pages. To aid him in the execution of his work, it has been his good fortune to have a personal knowledge of many who bore a conspicuous part in the Revolution, and of nearly all those who were the principal actors in the political dramas which succeeded. In seeking to profit by this advantage, he will endeavor to guard against those biases to which writers of contemporary history are exposed. He does not, indeed, claim to have been free from party prejudices. Such indifference is neither attainable nor desirable. But now that time has cleared away the mists by which political objects were once enshrouded, he trusts that he shall be able to do substantial justice to all parties, and thus, as truth may require, commend what he may have once disparaged, and censure that which he once approved.

The work, as now written, extends to General Harrison's elevation to the Presidency, in 1841. This seemed to the author as far as he could prudently go — at least without obtaining some testimony from public sentiment of his fairness to his contemporaries. The succeeding volumes will be issued as rapidly as is consistent with a careful revision.



# CONTENTS.

## CHAPTER I.

### THEIR COLONIZATION.

	Page
INTRODUCTION .....	21
Settlement of Virginia.....	22
John Smith .....	22
Pocahontas.....	23
Cultivation of Tobacco.....	24
African Slaves introduced.....	24
First Legislative Assembly .....	24
Massacre of the English.....	25
Settlement of New England.....	26
Settlers arrive at Plymouth Rock.....	27
Settlement of Maryland.....	28
New Netherlands.....	28
First American Confederation.....	29
Questions of Boundary.....	29
Swedish Settlers.....	30
Virginia submits to Cromwell .....	30
Terms of Submission.....	31
Virginia chooses her Governors .....	32
Religious Persecution.....	33
Roger Williams.....	34
Religious Freedom.....	34
Settlement of the Carolinas.....	35
Witchcraft in New England.....	35
Albemarle Settlement.....	36
Locke's Scheme of Government.....	37
Rights of the Aborigines.....	38



	Page
Indian Wars and Massacres.....	39
Course of Massachusetts after the Restoration.....	40
Massachusetts sends Commissioners to England.....	41
Claim of Massachusetts to Maine .....	42
Discontents in Virginia .....	46
Nathaniel Bacon .....	44
Bacon's Rebellion.....	45
James Town burnt.....	46
Character of Bacon .....	47
Culpeper's Insurrection.....	47
New Netherlands captured by the Dutch.....	48
East and West Jersey.....	49
William Penn .....	50
Settlement of Pennsylvania.....	50
Penn founds Philadelphia .....	51
Andrew Andros.....	52
Leisler's Insurrection .....	53
Population of the Colonies .....	54
Colleges .....	54
Proceedings of the Crown against the Colonies.....	55
Lord Cornbury.....	56
Unsuccessful Expedition .....	57
Cession of Nova Scotia and Annapolis .....	57
Six Nations.....	57
Colonial Disputes.....	57
The Carolinas become Royal Provinces.....	59
James Oglethorpe.....	59
Settlement of Georgia.....	60
Restrictions of Colonial Commerce.....	61
Navigation Law .....	62
Restrictions on Colonial Manufactures .....	63
Paper-money.....	64
Depreciation of Paper Currency.....	66
Predictions concerning the Colonies .....	67
Expedition against Louisburg.....	69
Conflicting claims of France and England .....	70
George Washington.....	71
Convention at Albany.....	72
Confederacy proposed .....	72
General Braddock.....	73

	Page
War with France.....	73
Conquest of Canada.....	74
New Duties on Imports imposed.....	75
Stamp Act.....	76
Grenville's Resolutions.....	77
Colonel Barré.....	78
Stamp Act opposed.....	79
Patrick Henry.....	79
James Otis.....	80
Congress at New York.....	80
William Pitt.....	81
Stamp Act repealed.....	82
Declaratory Act of Parliament.....	82
Charles Townshend.....	83
Riots in Boston.....	84
Duties partially repealed.....	85
Regulators in North Carolina.....	86
Gaspé Sloop-of-war.....	86
Tax on Tea opposed in the Colonies.....	87
Tea Destroyed in Boston.....	88
Hutchinson's Letters.....	89
Dr. Franklin.....	90
General Congress proposed.....	91
Congress meets in Philadelphia.....	92
Position, Area, etc., of the Colonies.....	93
Population of the Colonies.....	96
Effects of Slavery.....	97
Points of similarity.....	99
Attachment to the Parent State.....	101
Love of Civil Freedom.....	102

## CHAPTER II.

## DECLARATION OF INDEPENDENCE.

Instructions to Delegates in Congress.....	103
Purpose of the British Ministry.....	104
Purpose of the Colonies.....	105
Diversity of their views.....	106
Congress meets at Carpenter's Hall.....	107

	Page
Each Colony has one Vote .....	108
Suffolk Resolutions.....	109
Support of Boston by Congress .....	110
Joseph Galloway .....	111
His Plan of Accommodation.....	112
Congress suspends Imports and Exports .....	113
Its Address to the King .....	114
Its Advice to the People of Boston .....	115
It sets forth the Rights of the Colonies.....	116
Obnoxious Acts of Parliament noticed .....	118
Articles of Voluntary Association.....	119
Address to the British People.....	120
Address to the People of Great Britain.....	121
Address to the United Colonies.....	122
Address to George the Third .....	123
Votes of Thanks.....	124
Address to the Canadians.....	125
Congress closes its session .....	126
Character of the first Congress.....	127
Massachusetts Legislature .....	128
Proceedings of Parliament.....	128
Lord Chatham's Bill.....	129
Lord North's Conciliatory Resolutions.....	131
Policy of the Ministry .....	132
Burke's Plan of Conciliation .....	133
Hartley's Proposition.....	133
Blood first spilt at Lexington.....	134
British Soldiers resisted and repulsed.....	135
Other Colonies aid Massachusetts.....	136
Capture of Ticonderoga and Crown Point.....	137
Proceedings of Congress .....	138
Washington Commander-in-chief.....	139
Appointment of other Generals .....	140
The first Issue of Paper-money.....	140
Declaration of the Causes of taking up arms .....	141
Arrival of British Forces at Boston .....	142
Battle of Bunker's Hill .....	143
Doctor Joseph Warren.....	144
Addresses by Congress .....	145
Georgia sends Delegates to Congress .....	145



	Page
Lord North's Propositions rejected.....	146
Petition to Congress from Bermuda.....	147
Reprisals at sea ordered .....	147
Ships-of-war fitted out.....	148
Measures in the several Provinces.....	149
Lord Dunmore in Virginia .....	151
Royal Authority terminated in the Colonies .....	152
Proceedings in Parliament.....	153
Burke's Resolutions.....	154
Hessian Mercenaries.....	155
Invasion of Canada by the Colonists.....	156
Successes in Canada.....	157
Junction of Montgomery and Arnold.....	158
Death of Montgomery.....	158
Arnold at Quebec.....	159
Canada evacuated.....	160
Battle of Moore's Creek, in North Carolina.....	161
British repulsed at Charleston.....	162
Independence proposed in Congress.....	163
Mecklenburg Declaration.....	164
Evacuation of Boston.....	165
Declaration of Independence.....	166
Independence discussed.....	167
Committee to draw the Declaration.....	171
The Declaration adopted by a majority.....	172
The final adoption unanimous.....	173

## CHAPTER III.

## THE WAR OF INDEPENDENCE.

How the Declaration was received by the People.....	175
Washington's preparations .....	176
Arrival of the British Armament .....	177
Howe's Letter to Washington.....	178
Preparations for defence .....	179
Battle of Brooklyn.....	180
Retreat from Long Island.....	181
Overtures from Lord Howe .....	182
Conference of a Committee of Congress with Lord Howe.....	183

	Page
New York evacuated by Washington.....	184
Jealousies among the Troops of different States.....	186
Washington's representations to Congress.....	187
Longer enlistments authorised.....	187
Skirmishes with the British.....	188
Action on the Brunx.....	189
Capture of Fort Washington.....	190
Fort Lee abandoned.....	191
General Lee captured by the British.....	191
Mifflin procures reinforcements.....	192
Washington's firmness in Adversity.....	193
Washington's powers enlarged by Congress.....	194
Capture of the Hessians at Trenton.....	195
Retreat from the Assanpink.....	196
Battle of Princeton.....	197
Death of General Mercer.....	197
Possession of New Jersey regained.....	198
Force on Lakes George and Champlain.....	199
Arnold on Lake Champlain.....	200
Sir Henry Clinton takes possession of Rhode Island.....	200
Paper-money begins to depreciate.....	201
Sir William Howe retreats to Staten Island.....	202
Capture of General Prescott.....	203
Howe embarks for the Chesapeake.....	203
Battle of Brandywine.....	204
Manœuvres near Philadelphia.....	205
General Wayne surprised at Paoli.....	205
The British enter Philadelphia.....	206
Battle of Germantown.....	207
The British repulsed at Red Bank.....	208
Attack on Fort Mifflin.....	209
Burgoyne invades New York.....	210
Ticonderoga evacuated.....	211
Burgoyne's difficulties.....	212
Stark's victory at Bennington.....	213
Burgoyne retreats.....	214
He surrenders.....	215
Honors to General Gates.....	215
Winter Quarters at Valley Forge.....	216
Sufferings of the American army.....	216
Complaints against Washington.....	217

	Page
The Army and People support him .....	217
Conway's Cabal .....	218
Complaint by General Burgoyne .....	219
His remonstrance .....	220
Reply by Congress .....	220
Lord North's new Propositions .....	221
Friendly sentiments in France .....	222
Silas Deane .....	223
Envoys to France .....	223
Marquis De La Fayette .....	224
Articles of Confederation .....	225
Howe succeeded by Clinton .....	226
The Mischianza .....	226
The British leave Philadelphia .....	227
Action at Monmouth Court-house .....	228
General Lee arrested .....	229
Arrival of the French fleet .....	230
Count D'Estaing and General Sullivan .....	231
Sullivan evacuates Newport .....	232
The Americans and French reconciled .....	233
Surprise of Colonel Baylor .....	234
Arrival of British Commissioners .....	235
Their Propositions .....	235
Answer to the Commissioners .....	237
Manifesto of the Commissioners .....	238
Massacre at Wyoming .....	239
George Rogers Clarke .....	239
Surprise of Hamilton at Detroit .....	240
Silas Deane .....	241
Georgia overrun by the British .....	242
Lincoln supersedes Howe in the South .....	243
Repulse of Lincoln at Stono Ferry .....	244
Invasion of Virginia by Mathews .....	245
Discontents in the Army .....	246
Incursion into Connecticut .....	247
Capture of Stony Point .....	248
General Lincoln and Count D'Estaing .....	249
The Americans and French repulsed at Charleston .....	250
Indian Country laid waste by Sullivan .....	251
Charleston invested .....	252
It capitulates .....	253



	Page
Subjection of South Carolina.....	254
Battle of Camden.....	255
De Kalb.....	256
Sumter.....	256
Commissary-general.....	257
Supplies furnished by France.....	258
Bank established in Philadelphia.....	258
The French and British Fleets.....	259
Benedict Arnold.....	260
His Conspiracy.....	261
Major André.....	262
His Capture and Execution.....	263
Arnold's rewards.....	265
Sergeant Champe.....	266
Battle of King's Mountain.....	267
— Retaliation on Tories.....	268
Sumter and Marion.....	269
Battle of the Cowpens.....	270
Morgan's Retreat.....	271
Greene retreats from Cornwallis.....	272
Battle of Guilford.....	273
Invasion of Virginia under Leslie.....	274
* Mutiny of Pennsylvanians.....	275
Mutiny suppressed.....	276
Attempt to Capture Arnold.....	277
Expedition of Phillips and Arnold.....	278
Lord Cornwallis arrives at Petersburg.....	279
La Fayette retreats to the Mountains.....	279
Tarleton at Charlottesville.....	280
La Fayette is joined by Wayne.....	281
He protects the Stores at Albemarle Old Court-house.....	281
The Military Force of the Americans.....	282
General Greene in South Carolina.....	283
Action at Hobkirk's Hill.....	284
Execution of Colonel Hayne.....	284
Battle of Eutaw.....	285
Arnold invades Connecticut.....	286
Washington marches to Virginia.....	286
Surrender of Cornwallis.....	287
Cessation of hostilities.....	288
Independence acknowledged.....	289

## CHAPTER IV.

## THE FEDERAL CONSTITUTION.

	Page
Negotiations for Peace.....	291
France unfriendly to some of the Claims of the United States....	293
America negotiates separately.....	293
Franklin's skill as a Negotiator .....	295
Terms of the treaty with Great Britain .....	296
Discontents of the army.....	297
Newburgh letters.....	298
Washington interposes .....	299
Patriotic resolutions of the officers.....	299
Report on the finances.....	300
Address to the States... ..	301
Appeal to Rhode Island.....	303
Mutiny in Pennsylvania.....	304
Mutineers pardoned.....	305
Permanent seat of Congress .....	306
Congress removes from Philadelphia to Trenton.....	306
Unsettled western lands.....	307
Conflicting claims to these lands.....	308
Claims of Virginia opposed.....	309
Resolutions relative to these lands .....	310
Articles of Confederation ratified .....	311
Report in Congress on claims to public lands.....	312
These claims referred to a committee .....	313
Remonstrance of New Jersey.....	314
Cession by Virginia.....	315
Equestrian statue of Washington .....	317
Permanent seat of Congress.....	318
New York, evacuated .... ..	319
Washington takes leave of the army .....	320
He resigns his commission to Congress.....	321
Reply of President Mifflin.....	321
Irregular attendance of members .....	322
New Constitutions of the States.....	323
Effects of paper currency.....	324
Government of the North-west Territory.....	326
Exclusion of Slavery rejected .....	327
Commercial regulations proposed.....	328
Treaties of commerce proposed .....	329



	Page
Principles of International Law proposed .....	329
Location and sale of western lands.....	331
Slavery inhibited in the North-west.....	332
Cession by Massachusetts .....	332
Monetary system of the United States.....	333
Report on Ways and Means.....	334
Regulations of commerce proposed to the States.....	335
Treaties with Indians and Prussia.....	336
Cession by Connecticut .....	337
People of Vermont claim to be a separate State .....	338
Navigation of the Mississippi.....	339
Policy of Spain towards the United States.....	340
Commercial difficulties among the States.....	341
Compact of Virginia and Maryland.....	342
General Convention at Annapolis proposed.....	343
Meeting at Annapolis.....	344
Address of the Annapolis Convention.....	344
Maine and Massachusetts.....	345
Shay's insurrection.....	346
The insurrection quelled.....	347
General Convention called.....	348
It meets at Philadelphia, in September, 1787.....	348
Motives to a new Constitution.....	349
Obstacles to a stronger government.....	350
Circumstances of encouragement .....	351
Randolph's and Pinckney's propositions.....	352
Each State entitled to one vote in Congress .....	353
Election of Members of Congress.....	354
Ratio of Members in the Senate.....	355
Votes of the States in the Senate.....	356
Equality in the Senate resisted.....	357
Votes in the Senate discussed.....	358
Grand committee appointed .....	359
Compromise among the States .....	361
Representation for slaves discussed.....	362
Mutual jealousies of the States .....	364
The Executive branch of the Government.....	365
Election of the Executive.....	366
Choice by Electors.....	371
Powers of the Executive.....	372
Powers of Congress.....	373

	Page
Miscellaneous provisions.....	374
Views of Alexander Hamilton.....	375
Anti-republican sentiments then prevalent.....	376
Convention closes its session.....	377
Reasons of Members for refusing to sign the Constitution.....	378.
Proceedings of the former Congress.....	379
Ordinance for the North-west Territory.....	380
The States ratify the Constitution.....	381
Washington elected President.....	382
Termination of the old Congress.....	383

## CHAPTER V.

## WASHINGTON'S ADMINISTRATION.

## FIRST TERM.

Pleasing anticipations of the people.....	384
Exceptions to them.....	385
Washington's arrival at New York.....	386
His speech on the opening of Congress.....	387
Navigation of the Mississippi.....	388
Indians.....	389
Barbary powers.....	389
Specific and ad valorem duties.....	390
Protective duties.....	391
Impost duties.....	392
Protective duties.....	394
Titles of respect.....	395
Power of removal.....	396
Construction of Constitutions.....	402
Treasury department.....	403
Duty of the Secretary of the Treasury discussed.....	404
Amendments to the Constitution.....	405
Permanent Seat of Government.....	407
Republican simplicity.....	408
Compensation of Members in the two Houses.....	409
Salaries of public officers.....	410
Washington's Cabinet.....	411
Appointment of Judges.....	411
President's speech to Congress.....	412
Exposition of the public finances.....	413
Funding of the Debt.....	414
Federal taxes.....	415

	Page
Rise in price of the public Securities.....	416
Discrimination among public creditors.....	416
Policy of funding the debt discussed.....	417
Speculations in public Securities.....	421
Assumption of State debts.....	422
Compromise on the Assumption.....	426
Policy of the Assumption considered.....	428
Petition against negro slavery.....	431
Report of a committee on this subject.....	432
Ratification of the Constitution by Rhode Island.....	434
Cession by North Carolina.....	435
The policy of retaliation discussed.....	436
Tonnage duties.....	440
Commercial retaliation again proposed.....	441
Naturalization.....	442
Trade with Indians.....	442
Death of Dr. Franklin.....	443
Honors to his memory.....	443
Acts of Congress of this session.....	444
Congress adjourns.....	445
Political parties.....	445
Opposition to the Administration.....	446
Second session of Congress.....	446
The President's speech.....	446
Cession of Indian territory.....	447
Land office.....	448
Excise.....	448
Policy of an Excise discussed.....	449
National Bank, its constitutionality and policy discussed.....	450
Construction of Constitutions.....	456
The Bank charter.....	457
Jefferson's and Hamilton's opinions on the Bank question.....	457
Harmer's defeat.....	458
Kentucky and Vermont admitted into the Union.....	459

## CHAPTER VI.

## WASHINGTON'S ADMINISTRATION.

## FIRST TERM.

The President visits the Southern States.....	460
General satisfaction with the Federal Government.....	461
Returns of the first census.....	461



	Page
Relations of the United States with England .....	462
Their Relations with Spain.....	463
Their Relations with France.....	464
Their Relations with the Indians .....	465
Appointment of foreign Ministers .....	466
State of parties in Congress .....	467
New apportionment of Members under the census.....	468
Debate on the Apportionment .....	469
The bill negatived by the President .....	470
The President's objections considered .....	471
Defeat of General St. Clair.....	472
Addition to the Army .....	473
Report of the Secretary of the Treasury.....	473
His reports on Manufactures and the Mint.....	474
Devices on the Coin discussed.....	475
Act on the death or removal of the President .....	476
Letter from Louis XVI. to the President.....	477
Correspondence between Jefferson and Hammond.....	478
Dissensions in the Cabinet.....	480
Washington again unanimously elected President .....	481
Unpopularity of the Excise law .....	481
Proclamation of the President.....	482
General Wayne appointed to command the army.....	482
Massacre of the whites in St. Domingo.....	483
Many of the whites seek an asylum in the United States.....	483
Negotiations with Spain .....	484
Origin of political parties.....	485
Parties in the United States .....	487
Jefferson and Hamilton, their discord .....	488
Washington attempts to reconcile them.....	489
He does justice to the merits of both.....	490
Gradual redemption of the debt proposed .....	492
Loan from the Bank.....	493
The Secretary of the Treasury assailed by Mr. Giles.....	495
Hamilton's reply to Giles's Resolutions .....	495
Giles offers another series of Resolutions .....	495
Debate on these Resolutions.....	496
Hamilton exculpated.....	497
Change of votes in the House as to repaying the bank explained...	498
The slave-trade and negro slavery.....	499

	Page
The fugitive slave law made inoperative.....	500
Review of the first Congress.....	501
Salutary influence of parties in the United States.....	502

## CHAPTER VII.

## WASHINGTON'S ADMINISTRATION.

## SECOND TERM.

Cabinet consultation.....	505
Proclamation of Neutrality.....	507
Arrival of Genet.....	508
Conduct of Genet.....	509
Cabinet discussions.....	510
Relations with France.....	511
Correspondence with Genet.....	512
Case of "The Little Democrat".....	514
Relations with France.....	515
Hamilton and Madison .....	516
Genet's recall demanded.....	517
Genet recalled.....	518
British Provision Order .....	519
Impressment of Seamen.....	520
Rights of Neutrals.....	521
Provision Order .....	522
Discussion in the Cabinet.....	523
The President's opening speech.....	524
Message from the President.....	525
Jefferson's Commercial report.....	526
Jefferson resigns.....	527
Commercial relations.....	528
Foreign Commerce of the United States.....	529
Commerce with Great Britain, etc.....	530
Restrictive policy discussed.....	531
Restrictive policy.....	532
Policy of a Navy.....	539
Embargo laid .....	542
Retaliatory measures proposed.....	543
Mission to England.....	544
Parties in the United States .....	545
Carriage tax.....	546
Complaints by the British Minister.....	547
Answer to Hammond's complaints .....	548

	Page
Accounts with the States adjusted .....	549
Consequences of the Assumption .....	550
Wayne defeats the Indians .....	551
Resistance to the Excise law .....	552
Proceedings of the malcontents.....	553
Militia ordered out.....	554
Proceedings of the malcontents.....	555
Proceedings of the insurgents.....	556
Submission by the insurgents.....	557
Conditional amnesty granted.....	558
Causes of insubordination.....	559
The President's speech .....	560
Self-created Societies.....	561
Party discussions .....	562
Self-created Societies.....	563
Thanks to Wayne and others.....	564
New taxes proposed.....	565
Direct taxes . .....	566
Treasury report.....	567
New Naturalization act.....	568

## CHAPTER VIII.

## WASHINGTON'S ADMINISTRATION.

## SECOND TERM.

The British Treaty .....	570
Objections to the Treaty.....	573
Conditional ratification .....	575
Randolph resigns.....	576
Changes in the Cabinet .....	577
Treaty with Spain.....	578
Presentation of the French flag.....	579
Address to the French Minister.....	580
Corrupt offer to the Members of Congress.....	581
Power of the House as to treaties.....	582
President's reply to the House.....	583
The powers of the House discussed.....	584
Madison's speech on the Treaty.....	585
Madison's speech .....	586
The British Treaty discussed .....	587
Gallatin's speech .....	589
Fisher Ames.....	590



	Page
Ames's speech.....	591
Majority for the Treaty .....	592
Intercourse with the Indians .....	593
Price of the public Lands .....	594
Three frigates authorised.....	595
Tennessee admitted into the Union.....	596
Monroe succeeds Gouverneur Morris.....	597
Monroe in France .....	598
His Correspondence.....	600
Complaints by the French Government.....	602
Monroe defends the United States.....	603
Monroe censured by his Government.....	604
Monroe and Pickering.....	605
Monroe and the Ministry of France.....	606
Monroe superseded by Pinckney .....	607
His adieu to the Directory.....	608
Adet's proclamation and complaints.....	609
Washington's Farewell Address .....	610
Presidential Election .....	611
Washington's last speech to Congress. ...	612
Relations with France.....	614
Complaints by French Envoys.....	615
Mr. Pickering's reply.....	617
Additional Impost.....	618
Military Bill negatived by the President.....	619
Pickering's Report of injuries sustained from France .....	620
Pacific policy of Washington reviewed .....	621
Effects of the Pennsylvania insurrection.....	623
Jefferson and Hamilton compared .....	624
Washington's career.....	627

## APPENDIX.

No. I. Patrick Henry's Resolutions on the Stamp Act.....	629
“ II. The Declaration of Independence .....	631
“ III. The Articles of Confederation.....	636
“ IV. Ordinance for the government of the North-west Territory. ....	645
“ V. The Constitution of the United States.....	652
“ VI. Ratification of the Constitution by the several States.....	665
“ VII. The settlement of Vermont .....	666

# HISTORY

## OF THE

# UNITED STATES.

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## CHAPTER I.

### THEIR COLONIZATION.

IN the beginning of the seventeenth century, while Europe was advancing with accelerated steps in that career of improvement which the art of printing, the revival of letters, and the discovery of America had united in opening to her, a few humble adventurers from England were laying the foundations on the eastern coast of the western continent for yet greater changes. They were unconsciously planting the seeds of a mighty empire, whose example and influence have already been felt in the greater part of Europe, and which bid fair to be felt in every part of the habitable globe.

It cannot fail to be an object of interest to a liberal curiosity to trace the progress of these settlers in spreading civilization and free government over the western wilderness; and, passing by inconsequential incidents, to note those circumstances of their condition, whether physical or moral, which have mainly contributed to such memorable results. We may add, that an honest review

of their political course, since they have taken rank among nations, may also prove instructive both to themselves and the world. It will be the purpose of the author of the following pages to pass judgment, as well on individuals as on parties, with independence and candor — endeavoring to rise above contemporary prejudices, and trusting to that love of truth and justice which, though inherent in the human heart, the passions of the day, unfortunately, too often overpower and extinguish.<sup>1</sup>

After two abortive attempts by Sir Walter Raleigh to establish a colony on what is now part of North Carolina, which was included in a liberal grant of territory made to him by Queen Elizabeth, and called by her Virginia, another attempt was made in 1607, by a joint stock London company, under a charter from James the First, which proved more successful. The colony they sent out, consisting of a hundred and five men, settled on a small peninsula, on the north side of James River, about fifty miles above its mouth, at a place they called James Town. Of this settlement, having no intrinsic recommendations, some ruins yet remain, which, in the dearth of memorials of the past, are fondly cherished by the American antiquary.

Among these first settlers was Captain John Smith, whose previous life had been a series of bold and romantic adventures, and who, first, as a member of the Council, and then as its President, rendered more essential services to the colony than any of his associates. Yet it is

<sup>1</sup> In the synoptical view which this chapter presents of the first settlement and early progress of these States, I have been greatly indebted to Grahame's Colonial History; to Mr. Hildreth's first three volumes; and, above all, to Mr. Bancroft, who, in giving the result of his very copious researches, has exhibited an accuracy as rare as it is praiseworthy. I have always consulted the authority of these writers, when accessible, as they most frequently were.



to an incident in his life while in Virginia, by its forcible appeal to human affections, that he is indebted for a wider celebrity than to all his deeds of wisdom or valor. Having been made a prisoner by the Indian chief Powhatan, he was saved from instant destruction by Pocahontas, the young daughter of that chief.<sup>1</sup> This interesting female, whose fearless generosity has so often been the theme of panegyric with the historian and the poet, some years afterwards married Mr. Rolfe, an Englishman, and went with him to England, where she was treated as a princess, and where, during the few years she lived, she wore her honors with becoming grace. She has numerous descendants, among whom several of the most respectable Virginians of the present day are proud to be numbered.

After three years, Smith's return to England was hastened by an injury he received from an explosion of gunpowder. When restored to health, he made two

<sup>1</sup> This is Smith's own account of the transaction, in his letter introducing Pocahontas to the Queen :

"Some ten years ago, being in Virginia, and taken prisoner by the power of Powhatan, their chief king, I received from this great savage exceeding great courtesy, especially from his son Nantaquans, the most manliest, comeliest, boldest spirit I ever saw in a savage, and his sister Pocahontas, the king's most dear and well-beloved daughter, being but a child of twelve or thirteen years of age, whose compassionate pitiful heart, of desperate estate, gave me much cause to respect her. I being the first Christian this proud king and his grim attendants ever saw, and thus enthralled in their barbarous power, I cannot say I felt the least occasion of want that was in the power of these my mortal foes to prevent, notwithstanding all their threats. After some six weeks falling amongst these savage courtiers, at the minute of my execution, she hazarded the beating out her own brains to save mine, and not only that, but so prevailed with her father, that I was safely conducted to James Town." — (Smith's History of Virginia, Vol. I.)

voyages to New England, of which he produced a map and description as he had done of Virginia.

For six or eight years the early settlers—including the accessions they had received from England—were thinned in their numbers and disappointed in their hopes by disease, by the difficulty of obtaining subsistence, and by occasional collisions with the natives, who, however, in the main, were neither formidable nor unfriendly. The industry of the colonists was, moreover, misapplied in unsuccessful attempts to manufacture salt, soap, and naval stores; to plant vineyards; and in the vain search after the precious metals, until they at length settled down on the cultivation of tobacco. This was found to be a profitable export to England, where its use for smoking had been greatly extended since its first introduction by Raleigh. It long continued the great, almost the sole staple of the colony; constituted its measure of value; as well as its principal currency; and was the subject of much useless, and some vicious legislation. The culture of tobacco was encouraged and increased by the introduction of negro slaves, first brought into Virginia by a Dutch ship in 1620. They increased slowly at first, but as there is a large expense of human labor in preparing tobacco for market, their number gradually augmented, so that sixty years after their first importation, it was deemed prudent to enact stringent laws to guard against their insurrection; and they finally amounted to near two-fifths of the whole population.

In the summer of 1619 was organized a legislative assembly, the first on the western continent. It was modelled after that of the mother country; the king being represented by the governor of the colony; the house of peers by his council, and the house of commons

by burgesses, of whom each borough, hundred, or plantation chose two.<sup>1</sup>

As long as Powhatan lived, the Indians continued on friendly terms with the colonists; but after his death in 1618, and when his brother Opechancanough had succeeded to his authority, the temper of the natives underwent a great change; and in 1622, they planned a general massacre of the English. The plot was revealed by an Indian who had been recently converted to Christianity. Though most of the colonists thus had time to make hasty preparations for defence, no less than three hundred and forty-seven persons were surprised and butchered without regard to age or sex. The surviving colonists were computed to be less than two thousand.

This disaster and its injurious consequences to the colonists, whose fears it excited, and whose vengeance it provoked, increased the dissensions of the proprietors in London, which had previously been very warm and bitter. Differing about the management of a settlement which had disappointed their hopes of gain, they were divided into a court and a country party. King James, who had sided with the court party, now ordered a writ of *quo warranto* against the Virginia company. Two new charters had been previously granted to the company, at their own instance, the last of which comprehended the Bermuda Islands. On the trial of the *quo warranto*,

<sup>1</sup> Some historians state the number of boroughs which selected deputies to the first Assembly to have been seven, and others, eleven; but the discrepancy is easily reconciled. At the meeting of the Assembly in June, only seven boroughs were represented, but, in the course of the same summer, four more were added, thus increasing the burgesses from fourteen to twenty-two. — See Hening's Stats. at large, which furnishes copious, as well as the most authentic materials for the early history of Virginia.



judgment was given against the company, and its patent was cancelled.

Virginia was now a royal province, and twelve years afterwards, Sir John Harvey, one of its governors appointed by Charles the First, had rendered himself so obnoxious by his tyranny and rapacity, that he was suspended by the council, and sent over to England with two members of that body to prosecute his impeachment. The king, however, refused to inquire into his conduct, and forthwith reinstated him in his government.

At the very time that James granted the southern part of the new territory called Virginia to a London company, he made a similar grant of the northern part to another company, consisting of chief justice Popham, Sir Ferdinando Gorges and others, who were principally merchants of the towns of Plymouth, Bristol, and Exeter.

The first settlement of this company was on the river Sagadahok, now Kennebec in Maine; but it terminated the same year it began. The winter was a severe one, and the sufferings of the settlers from five months of ice and snow without intermission, together with a loss from fire, induced them to return home. To justify themselves with the proprietors, they pronounced the country to be unhealthful, and so intolerably cold as to be uninhabitable by Englishmen.

This region was afterwards visited by Captain Smith in a voyage which seems to have been prompted by his own spirit of adventure, though it was at the charge of others.<sup>1</sup> He surveyed its coasts and rivers with his wonted diligence, and called it "New England," to which name, on his return to England, he obtained the

<sup>1</sup> II. Smith, Hist., 175.

sanction of the prince royal, afterwards Charles the Second:<sup>1</sup>

He gave a very favorable account of the country, particularly for the abundance of its fish, which he justly thought might prove as great a source of wealth to New England as it had proved to Holland.

He made another voyage thither in the following year, in the employment of Sir Ferdinando Gorges and some London merchants. His purpose was to remain in the country and attempt to found a colony with only fourteen men and two boys. He set sail with two vessels; was compelled to put back, from the crazy condition of his own ship; made another attempt in a bark of fifty tons; but having been captured by the French, he never again reached New England; and his purpose of planting a colony there was thus defeated.

A successful attempt was, however, made soon afterwards, and the second permanent settlement by Englishmen in America was at Plymouth in Massachusetts. It was made by the sect called "Puritans," and they came directly from Leyden in Holland, to which they had, some eleven or twelve years before, exiled themselves to escape the religious persecution they experienced in England.

They reached Plymouth Rock in December, 1620, and their whole number, consisting of one hundred persons, came in a single ship, the *Mayflower*.

The colonists had received no charter from the crown to exercise the powers of government; nor had they at first even a right to the soil. But in the following year they obtained a grant of the adjoining lands from the Plymouth company, to whom James, in November, 1620,

<sup>1</sup> Grahame is mistaken in supposing it was Charles with whom the name originated. — I. Grahame, 158; II. Smith, 262.

had made a grant of all the territory in North America between the fortieth and forty-eighth degrees, and reaching from the Atlantic to the Pacific—comprehending more than a million of square miles.

This grant professed to be “for the planting, ruling, ordering, and governing New England in America; and under it several distinct communities were soon afterwards formed. These were *New Plymouth*, already mentioned; *Massachusetts*, settled in 1629; *Boston*, in the succeeding year; *New Hampshire*, about the same time; *Connecticut*, in 1635; *Rhode Island*, in 1636; and *New Haven* in 1637. The last adopted the sacred Scriptures as the rule of their commonwealth.

The grant of Maryland, lying between the settlements of Virginia and New England, was made in 1632 to George Calvert, Lord Baltimore, and it was first settled by Catholics, to which sect the grantee belonged. This colony, by its charter, was to be perpetually exempted from English taxation, and by an early act of its legislature, no preference was to be given to any Christian sect whatever. This was the first instance in America of religious toleration formally recognized by the government.

In the interval between the settlement of Virginia and that of New England, Henry Hudson, an English navigator in the service of the Dutch, in a voyage of discovery on the American coast, ascended the river which now bears his name; and in a few years afterwards the Dutch settled New York, and part of New Jersey, called by them New Netherlands, which they claimed by right of discovery, and retained until it was, about half a century afterwards, conquered by the English.

This Dutch settlement, as well as that of the French in Acadie (now Nova Scotia), became an object of jealousy and apprehension to the English colonies in the



North, afterwards called New England; and, for their greater security, four of those colonies — Plymouth, Massachusetts, (to which New Hampshire had annexed herself,) Connecticut and New Haven — entered into a league offensive and defensive, under the name of “the United Colonies of New England.” Rhode Island was excluded from the confederacy, because she was considered to be a part of the colony of Plymouth; and when, three years afterwards, some of her people applied for admission, they were told that they must first be incorporated with Plymouth; but they refused to join the league on these terms.

The provisions of this confederation — which thus early showed the propensity of distinct communities to form political union — related only to a state of war; to the relations of the Indians with its members; and to the delivering up of fugitives from justice. In all other respects each colony retained its own jurisdiction and government. But on more than one occasion the members differed about the construction of the articles of union — each one, as is usual, insisting on that interpretation which best accorded with its interests.<sup>1</sup>

In these new settlements questions of boundary and jurisdiction were already of frequent recurrence. Besides the one mentioned between Plymouth and Rhode Island, the patents to John Mason of New Hampshire, and to Sir Ferdinando Gorges of a part of Maine, were fruitful of much controversy. England, moreover, asserting her exclusive right to the whole American coast from the forty-eighth to the thirty-first degree of north latitude, denied the right of the Dutch to make settlements in New York and New Jersey; and she contested with France the proper limits of Acadie. Virginia, in like

<sup>1</sup> I. Pitkin, 52.

manner, disputed the grant of Maryland to Lord Baltimore, as inconsistent with her prior patent. From that time almost to the present day, questions of boundary have given rise to serious and irritating controversy, both provincial and national.

The Swedes also, by the advice and aid of their prince Gustavus Adolphus, had made a settlement on the west side of the Delaware river as early as 1627. They afterwards built several forts near that river, founded the little town of Christiana, called after their queen; and the whole country from Cape Henlopen to the Falls of the Delaware, was named New Sweden. Of this country they retained possession until 1654, when it was wrested from them by the Dutch.

During the civil war in England, which terminated in the death of Charles the First, and after the substitution of a commonwealth for the monarchy, the New England colonies, having been settled by Puritans, took sides with Cromwell; while Virginia, where the Church of England was established, adhered to Charles, and afterwards to his son, while he was an exile in Holland. The attachment of the Virginians to the royal cause was augmented by the number of loyal cavaliers who fled thither during the troubles in England. About two years after the execution of Charles, the Parliament sent over a powerful force to reduce Virginia and other rebellious colonies to obedience, and on the arrival of the fleet off James Town, the colonists, headed by Sir William Berkeley, the Governor, prepared for resistance, but, after a short negotiation, the parties came to terms of liberal and amicable compromise.

There seems to have been separate articles of capitulation agreed on by the three Parliament Commissioners with the Council of State, and by the same Commissioners

with the "Grand Assembly of Governor, Council and Burgesses." One set merely secured indemnity and indulgencies to the Governor and members of the Council. Of the other set, the first article, after acknowledging the subjection of "the plantation of Virginia" and its inhabitants to the Commonwealth of England, declares that this submission was "a voluntary act, not forced nor constrained by a conquest upon the country;" and that the inhabitants "shall have and enjoy such freedom and privileges as belong to the free-born people of England."

The second article provides that the Grand Assembly shall "transact the affairs of Virginia" as formerly, doing nothing, however, contrary to the government of the Commonwealth of England and its laws.

After some articles of minor importance, it is stipulated that the people of Virginia shall have as free trade as the people of England to all nations; shall enjoy privileges equal to those of the English plantations in America; and shall be free from all taxes, customs, and impositions whatsoever, imposed without the consent of the Grand Assembly. These articles were signed and sealed by Commissioners on both sides on the twelfth of March, 1651.

On the same day the Parliament's Commissioners executed a formal act of indemnity for all that had been done, written, or spoken by the inhabitants against the Parliament or Commonwealth of England; and they assign as their motive for this act the prevention of the ruin and destruction of their Commonwealth that would so probably follow its resistance to the forces of the Parliament.

The liberality of these terms of capitulation has been somewhat more extolled by historians than the occasion seems to justify. They were the natural result of the



circumstances in which the parties were placed. The colonists, by persevering in a resistance which must finally prove unavailing, might injure themselves, but could not benefit the royal cause. On the other hand, the chief object of the expedition having been obtained when the colonial authorities acknowledged submission and obedience to the existing government of England, the Commissioners of Parliament were not likely to abridge the liberties of a colony which was about to pass under the rule of their adherents; which course, moreover, would have been repugnant to their own most cherished political principles. That they were influenced by such considerations would appear from the fact that the same liberal terms then granted to Virginia, they had previously granted to Barbadoes, after it was subdued by the Parliamentary forces.

Richard Bennett, one of the Parliament Commissioners, was then unanimously chosen Governor, by the House of Burgesses; and they continued to appoint his successors until the Restoration. On one of these successors, Matthews, they exercised the right of removal, and then re-elected him.

They were so far reconciled to the change of dynasty in England that, on the death of Cromwell, the House of Burgesses unanimously acknowledged his son Richard as his successor. Yet, on learning Richard's resignation about the time of Governor Matthews's death, they elected Sir William Berkeley to succeed him; and on his refusing to take office under an usurped authority, they acknowledged Charles the Second to be their lawful sovereign, and so proclaimed him.

While these things were passing in Virginia, the people of New England, under the disadvantages of a harsher climate and less genial soil, were steadily in-

creasing in numbers and improving in condition. By means of their fisheries, and an active foreign commerce, prosecuted with the enterprise, industry and thrift which have ever characterized them, their population appears to have overtaken and passed that of Virginia at the time of its surrender to the authority of the Commonwealth, when it was computed to be twenty thousand.<sup>1</sup> The English Puritans who migrated to America went exclusively to New England.

Thus fed by new accessions, the puritanical spirit lost there none of its original vigor, and exhibited itself not merely in the fervor of its devotion, in its rigid self-denial, and in subtle theological controversy, but what is far less creditable, in religious persecution, as they themselves had experienced the very species of injustice they inflicted. Thus those who had encountered the discomforts of a wilderness and the horrors of Indian warfare to enjoy uninterrupted liberty of conscience, were unwilling

<sup>1</sup> Mr. Bancroft (Vol. I. p. 415) says the number of emigrants to New England before 1640 was estimated at twenty-one thousand two hundred. But it may be remarked that since of these immigrants by far the larger part were males, the number of births in this period was probably less than that of the deaths, and, consequently, the whole population was less than the whole number of immigrants. This inference is confirmed by Mr. Bancroft's estimate of the New England population thirty-six years afterwards, which he puts down at only fifty-five thousand, and which is scarcely equal to the ordinary increase by natural multiplication.

By reason of the disproportion of males in the early immigrations, and the changing ratio of natural multiplication, it would follow that the rate of increase would be at first very high; would gradually diminish for a term, and then gradually increase, until it reached uniformity or near it. This varying ratio makes every estimate of the population of new colonies, founded on any census, preceding or subsequent, a problem of difficulty and uncertainty; and helps to account for the perplexing discordance we meet with in this item of their statistics.

to grant that liberty to others. By this inconsistency Roger Williams, a man of rare virtue and disinterestedness, but a zealot contending for greater religious freedom than was tolerated in Massachusetts, was compelled to leave that colony. It was then that he sought refuge in Rhode Island, where he founded the first settlement, which he called Providence. Anne Hutchinson, too, as distinguished for eloquence as religious zeal, and who taught the antinomian doctrine, shared the same fate, with others of less note. The Quakers, likewise, who were not then the quiet sect they subsequently became, were required to leave Massachusetts on pain of death, which penalty several of them voluntarily incurred. It would seem that in this colony the same pride of opinion and inflexibility of purpose which the Puritans had shown in bearing persecution they now exhibited in inflicting it; and while the recollection of former persecutions induced the Catholics in Maryland, the Baptists in Rhode Island, and the Quakers in Pennsylvania to grant freedom of conscience to others, in Massachusetts, under similar circumstances, fanaticism overpowered the sense of justice. But in truth fellow-feeling for the suffering from persecution could avail little against the frantic bigotry of the Puritans, which infatuation, confounding all moral distinctions, regards the most savage cruelty as innocent, and converts lenity and moderation into crime.

In 1662, Charles the Second granted to a few favorite courtiers<sup>1</sup> all the lands in North America from the thirty-sixth degree of north latitude to the river St. Matthieu, now the St. John's of Florida. But the patentees, dis-

<sup>1</sup> These were Lord Chancellor Clarendon, the Duke of Albemarle, formerly General Monk, Lord Ashley, afterwards Lord Shaftesbury, Lord Craven, Lord Berkeley and his brother Sir William, Sir John Colleton, and Sir George Carteret.



covering that some valuable lands were not included in their grant, obtained, two years later, a second charter for the lands lying between thirty-six and a half degrees and the twenty-ninth parallel, to which they gave the name of Carolina, and which comprehended the two States of that name and Georgia. The territory thus granted was not only included by the Spaniards within the limits of Florida, but a part of it was within the grant that had been made by Charles the First in 1630 to Sir Robert Heath. The grant to Heath, having never been carried into execution, had been adjudged to be forfeited; and it was only the grants by Charles the Second which had permanent vitality.

There had been two settlements of French Huguenots in South Carolina, a century before; the first of which had been abandoned by the settlers in despair, after they had given to a fort there erected the name of Caroline, in honor of their sovereign Charles the Ninth; and the second, having provoked the jealous bigotry of the Spaniards, its settlers were savagely butchered by them, without regard to age or sex.

Early in the succeeding century two settlements had been made in what is now North Carolina, one on the Chowan near Albemarle Sound, under the auspices of Virginia, and the other by adventurers from New England to the south of Cape Fear River — both of which were in existence at the time of the Restoration.<sup>1</sup>

Witchcraft being then fully credited in America as it was in Europe, afforded to the Puritans of New England frequent occasions of persecution.<sup>2</sup> The first trials for

<sup>1</sup> Drayton's South Carolina, page 5. This writer considers it uncertain whether the name of his State was derived from Charles the Ninth of France, or Charles the Second of England.

<sup>2</sup> III. Grahame.

witchcraft were in Massachusetts, in 1645, when four persons were put to death.<sup>1</sup> The delusion was at its height in 1692. It seems to have been arrested by William's negative of the colonial act against witchcraft.

The proprietaries, soon after their first grant, adopted measures to make their transatlantic territory profitable. They contributed money to encourage immigration, and they undertook the government of the volunteer settlements on Chowan and Cape Fear, which were about two hundred miles apart, and separated yet more by an impenetrable wilderness of forest and morass than by distance. But the proprietors wisely made the first yoke of authority light. The settlers were left to their own brief and simple code, suited to their circumstances, and were required to pay a quit-rent of but a half-penny an acre.<sup>2</sup> Of all the Anglo-American colonies, it is probable that the restraints of law and authority were never so little felt as by the first settlers of North Carolina.

The Virginia settlement—the oldest and most numerous—was called Albemarle, after one of the proprietors. Sir William Berkeley appointed William Drummond its Governor, who carried out the liberal policy of his employers. A legislative assembly was then established, the first in either Carolina, but there is no record of its acts since 1669. Drummond having returned to Virginia, was succeeded in 1667 by Samuel Stevens.

The Cape Fear settlement, though reinforced by emigrants from Barbadoes, under Yeamans, then made a baronet, did not thrive, and seems to have merged in the more successful colony of South Carolina.

In no long time a better knowledge of this portion of

<sup>1</sup> II. Hildreth.

<sup>2</sup> Even this petty charge, on a complaint from the Albemarle settlers, was given up. — II. Grahame, 74.

their province stimulated the cupidity and enlarged the views of the proprietors. To this end Shaftesbury applied to the celebrated John Locke for a plan of government. He accordingly prepared one which gave satisfaction to his employers, and was lauded by the public under the influence of Locke's reputation, but which proved utterly distasteful, and ill suited to those for whom it was made. The outlandish names of its functionaries — *palatine*, *landgrave*, and *cacique* — sounded strangely in their ears, and at once excited a prejudice against it. When examined more closely, it was found to have postponed the rights and interests of the people to its main purpose of strengthening and perpetuating the oligarchical rule of the eight proprietors.

Locke has always been held responsible for the failure of this political experiment, and it is likely enough that a mind however endowed with the powers of speculation, if also unversed in the practical business of life, and inexperienced in state affairs, would not be competent to frame a wise plan of government; yet the plan which he devised, being in accordance both with the sentiments and interests of Shaftesbury, was probably as much the work of that scheming, gifted, and versatile statesman as of Locke. It was unhesitatingly rejected by the settlers of Albemarle, who preferred the simpler and freer constitution that had been first provided for them; nor could the proprietary Governor ever prevail on them to adopt it. In this disagreement between the proprietors and the people, much confusion ensued, and political changes, including a popular insurrection, followed in rapid succession, until 1688, when, wearied out by the misrule of Lothiel the Governor, they seized him, and being about to send him to England to take his trial, he consented to be tried by the Assembly. He was accordingly thus



tried; was found guilty on every charge; and deprived of his authority.

The new constitution was carried into operation in the Southern settlements, so far as the circumstances of the colony would permit. William Sayle, a colonel in the army, first formed a settlement at Port Royal, but it was soon afterwards removed to a site on the south side of Ashley River, which they called Charlestown, and which was for some years the capital of the Southern settlements in Carolina; but in 1679, a more eligible site was selected at the junction of Ashley and Cooper Rivers, which received the same name, since changed to Charleston, the present emporium of South Carolina commerce.<sup>1</sup>

The Southern settlement continued to advance, fostered as it was by the Huguenots whom Charles sent over in 1679, for the purpose of making wine, oil, and silk, but dissensions arising between the proprietors and the people, Locke's constitution was formally abrogated in 1693.<sup>2</sup>

In these royal grants of land no regard was had to the rights of the aborigines, their legitimate owners and actual possessors, so far as hunting tribes can be possessed of land. Neither their previous consent nor subsequent ratification was asked. But it must not therefore be inferred that they were unconscious of their rights, or insensible of the dangers which threatened their race from the superior power of the foreign intruders. Far from it. Though disposed at first to wel-

<sup>1</sup> Drayton notices the mistake into which historians have commonly fallen in consequence of these early settlements having the same name. The first, which is distinguished as "Old Charlestown," is now part of a private plantation. — Drayton's So. Carol. 199.

<sup>2</sup> Fair summaries of this notable failure of speculative philosophy are given by Grahame, Hildreth, and Bancroft.

come the white man as a friend, they soon saw that the extension of that race among them was inconsistent with their own safety, or even with their means of subsistence; and more than once, in the infancy of the colonies, they aimed to exterminate the whites by a general massacre. One instance in 1622 has been already mentioned. . A similar attempt was made in the same colony about twenty years later, when more than three hundred whites were suddenly cut off. In the wars which followed these massacres, the Indians were reduced to unconditional submission.

After the increased number of the colonists made these schemes of extermination equally hazardous and hopeless, the Indians would still occasionally venture on war, with every prospect of defeat; consoling themselves with the expectation that if they could not obtain redress for their wrongs, they could at least partially avenge them. Their vengeance, too, always carried terror to the colonist, however brave, since it was aimed at the lives of his wife and children as much as his own.

Besides the two wars in Virginia which had severally followed the massacres in that colony, the Indians had made war against the settlement in Connecticut in 1637; and in 1675 and 1676 king Philip's war was of much wider extent and longer duration. The colonists of Maryland also were, for a short season, in open hostilities with the Indians, about the year 1642.

The course taken by Massachusetts after the Restoration was very different from that pursued by Connecticut and Rhode Island, and was followed by very different results. The news of that event was received by Rhode Island with the liveliest demonstrations of joy, that were probably, in the main, sincere, from her unfriendly feelings towards Massachusetts, which had so warmly

espoused the cause of Cromwell. The expression of loyalty by Connecticut, on that occasion, was more temperate. Both were doubtless somewhat influenced by policy, with a view to the favors for which they were about to solicit the monarch. They both sent agents to England — Connecticut, Governor Winthrop, and Rhode Island, John Clarke<sup>1</sup> — to petition Charles for the renewal of their charters. Their applications were successful, and the charters which those colonies then received were of so liberal a character that they were found adapted to their circumstances respectively when they became sovereign republics; and they continued unchanged not only after the Revolution, but until some years after the adoption of the Federal Constitution.

The conduct of Massachusetts, on the other hand, was little likely to find favor with Charles. The news of his restoration was brought over by two of the regicides, Whalley and Goffe, in July; yet it was October before the Legislature, or General Court, was convened. The motion to address the King was then rejected, but it afterwards prevailed in December. The address was cold and formal as an effusion of loyalty, and exhibited rather a desire to vindicate themselves, especially for their treatment of the Quakers, than to declare their

<sup>1</sup> Grahame, in his *Colonial History*, having charged Clarke with mean and servile adulation to Charles on this occasion, the historian is in turn sharply reprehended by Mr. Bancroft. A literary controversy thus arose which is very fully stated by Mr. Josiah Quincy, who published in Philadelphia a posthumous edition of Grahame's history. While the unbiassed reader will find nothing there to justify Grahame's censure of Clarke, who lived and died in the esteem of his countrymen, he will also acquit Grahame of wilful misrepresentation. He seems to be no otherwise blamable than in drawing inferences from the authorities he quotes which they do not fairly warrant. He partially corrects his first error in his revised edition.



attachment to the king. Evidently dictated more by prudence than affection, it could not impose upon Charles, who was at once sceptical of human sincerity, and jealous of the republican spirit which Massachusetts had even then manifested. With his wonted facility, however, he returned a gracious answer to the colonists, which so gratified them that a day of public thanksgiving was appointed by way of acknowledgment. But their hopes, thus raised, proved short-lived. Rumors soon reached them from England that schemes were on foot to abridge their commerce as well as that of the other colonies, and to deprive them of some of their dearest political rights.

A General Court was thereupon called in May 1661, when, finding that professions of loyalty and humility had no effect, they decided on a more manly course. In a solemn manifesto they defined the limits of their rights, and their obedience to the parent state. They even asserted the right to defend their just claims by force of arms.

Commissioners were appointed to carry this address to England. They were well received by the king, who readily consented to a confirmation of their charter, and an amnesty of all offences during the late suspension of royal authority, but, at the same time, he insisted on the rights of the Crown, and demanded a repeal of all laws which conflicted with those rights. He required that the colonists should take the oath of allegiance—that justice should be administered in his name—an unconditional toleration of the Church of England—and the right of suffrage to every inhabitant possessing the requisite estate. By way of further strengthening the royal authority, Charles appointed Commissioners to hear and determine all complaints in the colony.

These Commissioners accordingly proceeded to Massa-

chusetts, where they found themselves in a continual state of bickering and altercation with the Legislature and the people. Their authority, seldom appealed to, and often openly resisted, proved unavailing to the royal cause. Determining at length to carve out business for themselves, they repaired to New Hampshire, and there held a court to inquire into the title of Mason to that province, and of Gorges to Maine. But as Massachusetts, encouraged, as it is said, by the known favor of Cromwell, and the fact that Gorges was a loyalist, had asserted a claim to Maine, and had actually obtained possession of it, she was summoned before the English Commissioners, and required to surrender her claims to the province. Having passed judgment in favor of the claim of Mason's heirs to New Hampshire, and against the claim of Massachusetts to Maine, they organized governments in both.

But Massachusetts still strenuously asserting her rights, the whole subject of controversy was referred by the parties to the decision of the Chief Justice of England, who decided that the claim of jurisdiction in New Hampshire, asserted by Mason's heirs, was invalid; that the right reverted to the Crown; but that the rights of Gorges were complete, both as to jurisdiction and soil.

Massachusetts then purchased the rights of Gorges from his grandson and heir, for the sum of about six thousand dollars (twelve hundred and fifty pounds sterling), and thus secured a valid title. Charles was greatly offended at this purchase, since he had intended to make it himself, when he could spare the money, as a provision for his natural son, Monmouth. He openly rebuked the colonists for this intermeddling, and required them to give up the province on receiving the purchase-money; but this they refused. A *quò warrantò* was then sued out

against Massachusetts, and judgment having been given against her, she, like New Hampshire, became a royal province.

It deserves to be remarked that Maine was not incorporated with Massachusetts, but was treated as a dependency — a sort of colony—so that the decision of the *quo warranto* was probably as acceptable to the people of Maine as it was offensive to Massachusetts.

In Virginia, after the Restoration, there were great discontents among the people, caused by the large grants of land to court favorites;<sup>1</sup> by the heavy impositions for keeping up forts; by the exorbitant fees to public officers; by the very high pay to members of Assembly; by the new restrictions on their foreign commerce, which, first imposed by Cromwell, had been continued by Charles; and lastly, by the low price of tobacco. They therefore, in 1674, appointed three agents to apply to the king for redress, and to obtain for them a new charter that would afford them security against their principal grievances.

The petition of those agents having been referred to the Attorney-General and Solicitor-General, and those officers having made a favorable report, the king in council directed them to prepare a charter in accordance with the petition and their report, which was accordingly done; but before that instrument was perfected by the royal signature, events had taken place in Virginia which produced an entire change in Charles's purpose.

The discontents in that colony having been aggravated in 1676 by hostilities of the neighboring Indians, while her agents in England were yet negotiating for a redress of grievances, the patience of the people was exhausted.

<sup>1</sup> By one of these grants the careless and prodigal Charles conferred the whole territory of Virginia for thirty-one years on Lords Culpeper and Arlington



Determining, therefore, to demand instant redress, they found a fit leader in Nathaniel Bacon, a young Englishman of talents and address, who had studied law in the inns of court; and though he had been but three years in Virginia, was, by reason of his accomplishments, and the influence of his connections in the colony, already made a member of the Council of State.

On the ground of defending the country from the Indians, he applied to Governor Berkeley for a commission to raise volunteers, which being evaded or refused, Bacon actually placed himself at the head of a force that he was able to recruit, and undertook an expedition against the hostile tribes. He and his party were then denounced by the Governor as rebels; but the discontents of the people being thereby rather increased than lessened, the Governor, to appease them, dissolved the Assembly, and ordered a new election; in which Bacon, more popular than ever by his recent successes against the Indians, was elected a member. Proceeding then to James Town by water, he was captured by a government vessel, and while a prisoner, an amicable arrangement seems to have been entered into between Sir William Berkeley and himself.<sup>1</sup> It is of record that having appeared at the bar of the House of Burgesses, and on his knees, asked pardon for his "unlawful, mutinous, and rebellious practices," he was pardoned, and restored to his place in the Council. A few days afterwards, however, he secretly withdrew, and putting himself at the head of some four or five hundred men, indignant that he had not obtained the commission said to have been promised him, conducted them to the Assembly then in session. By their

<sup>1</sup> See a lively account of this rebellion in Hildreth, Vol. I. Chap. XV., which was written at the time by a member of the Virginia House of Burgesses.

clamors and threats they prevailed on that body to give Bacon the commission of general; to pass an act of indemnity in favor of him and his followers; and even to obtain an "applausive letter" to the king from the Governor, Council and Assembly. Sir William, having again dissolved the Assembly, and finding Bacon supported by the mass of the people, deemed it prudent to fly to Accomac County, on the eastern shore of the Chesapeake, having first by proclamation declared Bacon a rebel.

Bacon, alleging that Sir William Berkeley had withdrawn himself from the government of the colony, called a convention of the people, which assembled on the third of August at the Middle Plantation (afterward Williamsburg), and they there issued a public declaration that the Governor having abandoned the government,<sup>1</sup> they would adhere to General Bacon, and support him against any force that might be sent against him. They ratified this declaration by an oath, which was called the "oath of engagement," or fidelity to Bacon, which was also taken by a considerable portion of the colonists. He again marched against the Indians and defeated them with great slaughter, at a small stream which still bears his name, near Richmond, the present seat of government. He then assumed the chief authority in the colony, and, uniting with five members of the Council, one of them his uncle, he called a new Assembly.

Governor Berkeley had not been at first well received by the people of Accomac, but was at length able to recruit near one thousand men, by the promise of plunder, and returned with them to James Town.

But Bacon, with a very inferior force, laid siege to the

<sup>1</sup> The doctrine of abdication, with its consequences, which was afterwards brought to bear against James the Second, seems to have been here foreshadowed by this transatlantic demagogue.

place, and after a slight skirmish with the Governor's followers, being about to obtain possession of it, Sir William re-embarked in the night, and returned to Accomac. The next morning Bacon entered the deserted town, consisting of some sixteen or eighteen houses, which he consigned to the flames, that they might not again afford shelter to the royalists. While he was preparing to follow the Governor to Accomac, he was attacked by a disease contracted in the sickly month of September, in the marshy lands around James Town, and died in the County of Gloucester. His adherents, after his death, made a show of resistance for a while, but on overtures from the Governor, they at length surrendered; and thus terminated what in the annals of Virginia has gone under the name of "Bacon's," or the "Grand Rebellion."

The lives lost in this insurrection were chiefly the victims of the law. There were no less than twenty-three executed, some of whom were tried by martial law, and some by the common law court. Berkeley's vindictive course was condemned in England<sup>1</sup> as well as Virginia. He had enjoyed a good reputation in the colony for more than thirty years, but was generally censured at last for his conduct in provoking, in resisting, and in punishing this rising of the people.

When the news of these popular commotions reached England, the king was no longer disposed to enlarge the privileges of a colony in which the royal authority was so little respected, and which had proved so inadequate to maintain itself. Two years afterwards he granted a new charter to Virginia, that was strictly conformable to the

<sup>1</sup> It is said that Charles, among whose faults cruelty could not be reckoned, remarked of Berkeley, "That old fool has taken away more lives in that naked country, than I for the murder of my father."



petition of the Virginia agents in six of its least important items, but it was silent on the paramount questions of grants of land, and the imposition of taxes.<sup>1</sup>

It has been common, of late years, for historians, under the natural bias of popular sympathies, to regard Bacon as an heroic asserter of the rights of the people, and a martyr to his patriotism. The evidence of his real motives is indeed by no means clear. His professions were always patriotic; and it is only his acts that give rise to doubts about his true character, which doubts seem to have been quite as great with his contemporaries as they can be with those who have succeeded him; yet his humiliating acknowledgments in the presence of the Assembly are such as a brave man would scarcely have made, or having made, such as an honest man would not have disregarded. It therefore seems probable that he was actuated by the vulgar love of power and popularity, and that, profiting by circumstances, he adroitly made the public good the pretext for the attainment of his individual purposes.

Such had been the excitement in Virginia against the Indians, that the first Legislature which met after the insurrection enacted that Indians taken in war might be made slaves.<sup>2</sup>

Bacon's rebellion was soon after followed by a similar rising in North Carolina, conducted by John Culpeper, a surveyor in the Albemarle settlement. He had so much confidence in the cause of the insurgents, that he went to England in their behalf. He was there tried for

<sup>1</sup> The terms of the charter may be seen in the appendix to the second volume of Burk's Hist. of Virginia.

<sup>2</sup> The courts have, however, decided that no Indian brought into the province after 1692, nor the descendants of any Indian female so brought in, can be held in slavery.

treason, and owed his acquittal to the influence and address of Lord Shaftesbury.<sup>1</sup>

Soon after the charters were granted to Connecticut and Rhode Island, Charles, prompted by his brother, the Duke of York, made war on the Dutch, who had been seventy years in close alliance with England, and who had shown great favor and kindness to Charles in his exile, but whom the English people now hated as their great commercial rivals no less than the Duke of York hated them for their religion. A secret expedition was sent against their colony of New Netherlands, which, thus surprised and unprepared, surrendered without resistance. It then received its present name of New York from the Duke. It was recaptured by Holland in 1673, but, in the following year, it was, by the treaty of peace, retroceded to England, as was Acadie to France.

Some months before, the King, in anticipation of the conquest, and by virtue moreover of the prior claim which England had always asserted to the territory of the Dutch settlement, made a grant to his brother of the territory between the Kennebec and St. Croix, to the East, and of all the country to the South-west, as far as Delaware, so as to comprehend the New Netherlands and a part of Connecticut, which showed that Charles was as regardless of the terms of his recent charter to that colony as he was of his obligations to the Dutch.

The Duke immediately afterwards granted to Lord Berkeley and Sir George Carteret that part of the New

<sup>1</sup> As William Drummond, who had been the Governor of the Albemarle settlement, appears to have been the person of that name who was one of Bacon's followers, and who was tried and executed for the part he had taken in the "Rebellion," was his return to Virginia from Albemarle connected with Bacon's schemes; and could his example have influenced the insurrection of Culpeper?

Netherlands which lies between the Hudson and the Delaware, and to which Carteret, who owned an estate in the Island of Jersey, and had been its Governor, gave the name of New Jersey.

Berkeley, being in debt, assigned his undivided interest to two of his creditors, Fenwick and Billings, who were Quakers; and, some disagreement arising between them, it was adjusted by the mediation of the celebrated William Penn. It is probable that Penn's agency on this occasion decided the destiny of his subsequent life.

After the retrocession of New York in 1674, the Duke of York obtained a renewal of his patent, as doubts had been entertained about the validity of his first grant, in consequence of the New Netherlands being, at that time, in possession of the Dutch.<sup>1</sup>

Two years afterwards New Jersey was divided between Sir George Carteret and Lord Berkeley's assigns — East Jersey, the best settled part, being allotted to Carteret — and West Jersey to Berkeley's assigns. Perth Amboy was the seat of government of East Jersey, and Burlington of West Jersey.

Carteret having ordered East Jersey to be sold to pay his debts, a sale was accordingly made in 1682, and it was purchased by William Penn and eleven others. It was subsequently agreed among them that each purchaser should take a partner, and to the twenty-four proprietors the Duke of York, always friendly to Penn, made a new grant of East Jersey though he had refused to make one to Berkeley. The first Governor appointed by the proprietors was Robert Barclay, author of "The Apology." Both East and West Jersey continued proprietary governments

<sup>1</sup> It is said that, under the influence of the same legal question, Berkeley applied to the Duke of York for the renewal of his grant, which request he evaded.



till 1702, when they were surrendered by their respective proprietors to Queen Anne.

We come now to a settlement which, whether we look at the motive, the means, or the end of the founder, we must regard with unmingled satisfaction. William Penn, because at once better acquainted with the country on the Delaware, and more interested in it, by reason of the Quaker settlements in West Jersey, was desirous of there acquiring a territory, in which the members of that sect could find a safe asylum, and where he could carry into execution his religious and political principles, according to his own views. For this purpose, he applied to Charles for a grant of land on the Delaware, in consideration of a large sum (sixteen thousand pounds), which the government had long owed to his father, Admiral Penn. After much opposition from some of the courtiers, he succeeded in 1681, and obtained a patent for the lands west of the Delaware, comprehended between three degrees of latitude and five of longitude, with the exception of a small portion cut off from the south-east corner, constituting three counties on the Delaware, which the Duke of York wished to retain. This domain he proposed to call "Sylvania," but which Charles insisted on naming *Pennsylvania*. Penn's charter was nearly the same as that of Maryland to Lord Baltimore. In the following year he obtained from the Duke of York a grant of the three counties which now constitute the State of Delaware.

Penn set out for his new purchase the same year it was made, with two thousand English emigrants, and landed at Chester on the banks of the Delaware, on the twenty-seventh of October, and where he found that three thousand persons — Swedes, Finns, and Dutch — had already settled.

He formed for his new colony a political constitution in which, true to his former professions, he recognized the most liberal principles of civil freedom and unrestricted liberty of conscience. If, in carrying it into execution, it was sometimes found not practical, or failed of its purpose, we must recollect that this will ever be the case with schemes of government devised by inexperienced men.

One of his first measures was to gain the good-will and confidence of the natives. At a conference with one of their principal tribes, under an elm, long on that account held in veneration by the colonists, he assured them of his pacific principles and intentions; of his determination to respect their rights, as original lords of the soil; and to take possession of no lands without first obtaining the consent of the native owners.

The next year he laid out the plan of a city, which he called Philadelphia, on ground purchased of the Swedish settlers, a few miles above the junction of the Schuylkill and Delaware rivers, and extending two miles from river to river. His original plan has been scrupulously adhered to, and under his benevolent and liberal institutions, it so increased, that though fifty years younger than some other colonial towns, it was much the largest in the Union at the formation of the Constitution, and so continued until the beginning of the present century. Not more than a third of its population is now contained within the boundaries prescribed by its founder.

The Duke of York, after all doubts of his title to New York were removed by Charles' second grant, appointed Andrew Andros, then a major in the army, governor of that province, and who proved, both by talents and disposition, a fit instrument for his patron's arbitrary principles. The policy first pursued towards the people of

the province was, at first, liberal and conciliatory. In 1683 the provincial authorities made a charter of liberties for themselves, which received the sanction of their proprietary, the Duke; but after he became sovereign of England, as James the Second, he endeavored to deprive the colony of the fruits of his concession. It seemed, indeed, to have been his settled purpose to bring all the colonies, including the proprietary governments, under the immediate dependence on the Crown, to which end he appointed the Governor of New York (now Sir Andrew Andros) Captain-general over the colonies of Massachusetts, New Hampshire, Maine, Plymouth, Pemaquod, and Naragansett. Writs of *quo warranto*, the safe and ready instruments of his injustice, were also issued against most of the charters yet in force. After judgment, on one of these writs, had been given against Massachusetts, others were issued against Rhode Island and Connecticut. The Assembly of the first, considering resistance vain, surrendered its patent. Connecticut at first resisted, and though it evaded the surrender of its charter, by concealing it, as it is said, in a hollow oak, its Legislature finally submitted.

Andros used all his power, legitimate and usurped, to make his administration odious and oppressive, but it was soon brought to a close by the Revolution in England, which placed William and Mary on the throne.

When the news of the deposition of James reached Boston, Andros and his secretary Randolph, equally odious, were seized and thrown into prison, and all the functions of government were then exercised by the colonists. Their measures afterwards received the sanction of King William, who ordered Andros and Randolph to be sent to England, to be there tried for their offences. Connecticut and Rhode Island acted under their char-



ters, as if they had never been rescinded; and all New England was at once emancipated from the tyranny of the Stuarts.

A similar spirit was manifested at the same time in New York. Jacob Leisler took the lead on this occasion, and having declared in favor of King William, and Nicholson the Governor, who had succeeded Andros, having fled, Leisler assumed the government, and continued to discharge its functions until the arrival of Sloughter, who was appointed by William to succeed Nicholson. Even then, from a seeming unwillingness to give up his self-created power, Leisler openly resisted Sloughter's authority, and refused to surrender a fort except to an order under the king's hand. But Sloughter found no difficulty in taking possession of the government. Leisler was tried for high treason and executed. His estate, which had been forfeited, was subsequently restored to his son, in consideration of the father's fidelity to William. The king also made acknowledgments to Massachusetts for the course she had taken in his support, but, at the same time, reinstated Andros as well as Nicholson in office. That politic prince seemed to think that as they had been faithful to the interests of the Crown, they might be excused for not respecting the rights of the colonies. Andros was appointed Governor of Virginia, and Nicholson of Maryland.

Sir Andrew Andros, while Governor of Virginia, seems to have conducted himself with moderation. Perhaps he profited by the lesson he had learnt in Massachusetts, or, what is more probable, his altered course may be attributed to the different characters of the two monarchs on whose favor he was dependent. His arbitrary measures in New England, which were approved and encouraged by James, would not have been tolerated by William.

He exhibited great zeal in behalf of the agriculture and manufactures of his colony. He thus acquired popularity; and the only complaint urged against him by Beverley is, his insisting that the laws of England, whether made before or after the charter of Virginia, had a binding force in the colony.<sup>1</sup>

There had thus been, in the seventeenth century, twelve distinct English colonies established on the American coast. They differed widely in their pursuits and religion, and somewhat in their political and social institutions. Their united population at the end of the century was probably about two hundred and fifty thousand, which may be thus distributed: to the New England colonies, ninety thousand; to those between New England and the Potomac, that is New York, East Jersey and West Jersey, Pennsylvania (including Delaware) and Maryland, eighty thousand; and to Virginia and the Carolinas, eighty thousand.<sup>2</sup>

Only two colleges had then been established in the colonies. These were Harvard College, in Cambridge, near Boston, in the year 1638, and the College of William and Mary in 1692, at Williamsburg in Virginia, which was soon afterwards made the seat of government.

<sup>1</sup> Beverley's Hist. 95. Of this man, represented as so odious and tyrannical by all the historians of New England, Burk, in his history of Virginia, thus speaks: "Sir Edmund Andros is represented to have been actuated in his administration by a sound judgment, and a liberal policy; to have been exact, diligent, and methodical in the management of business; of a conciliatory deportment, and of great generosity." — II. Burk, p. 316.

<sup>2</sup> This estimate, compared with the ascertained numbers in 1790, supposes, for the aggregate population, an average duplication in twenty-two and a quarter years — a rate of increase doubtless too great for the latter part of the term, but less than that of the first part, when the population was estimated by some contemporary notices, to double in twenty years.

From this period until the disputes with the mother country, which ended in their separation, the colonies continued to grow by immigration and natural multiplication together, which doubled their numbers in some twenty-two or twenty-three years.

In this career of steady advancement their chief annoyances were wars either with the Indians or the French settlements on this continent, and vexatious regulations of the mother country, dictated by a desire to secure more effectually their political dependence, and to prevent all rivalry in commerce and manufactures. They were thus brought into occasional collision with the colonial governors, both royal and proprietary. The most important of these controversies we shall, as we proceed, briefly notice.

In 1701 a bill was introduced into Parliament for uniting to the Crown all the charter governments of Massachusetts, New Hampshire, Rhode Island, Connecticut, the Jerseys, Pennsylvania, Maryland and Carolina, and declaring their several charters void. But the agents of these colonies, in England, having been heard against the bill, it was defeated. One of the principal objections urged against those governments was, that from their increasing numbers and wealth, the colonies would, in a few years, throw off their allegiance to the parent country, and declare themselves "free states," if they were not checked in time by being made entirely subject to the Crown. We may fairly presume that the danger was then deemed slight or remote, when it was thus openly avowed, and when the proposed remedy was thus easily abandoned.

In 1702 the separation of the Delaware Territories from Pennsylvania took place. They had been erected into a separate government in 1691, but were re-annexed in 1693. After they had a separate Legislature in 1702,



they were still nominally under the jurisdiction of the proprietary of Pennsylvania.

In the same year Queen Anne, having accepted the surrender of East and West Jersey, appointed Lord Cornbury<sup>1</sup> the Governor of New Jersey and of New York. He was the grandson of Lord Clarendon, and consequently cousin-german to the Queen. This man, at once needy, rapacious and unscrupulous, was in a perpetual state of bickering and altercation with the Legislature of New Jersey, until they made such a representation of his misrule to the Queen that she removed him—declaring that “she would not countenance her nearest relations in oppressing her people.”<sup>2</sup> On being superseded he was placed under the custody of the Sheriff of New York, where he remained until, by his father’s death, he became Earl of Clarendon.

Before 1680 appeals from judicial decisions lay, in most of the colonies, to the legislative assemblies. But about that period, on a representation from Lord Culpeper, Governor of Virginia, of a controversy between the two Houses of Assembly respecting such appeals, Charles abolished them, and ordered that thereafter they should be made to the king in council.

These appeals to the king were afterwards resisted in some of the colonies, but were finally acquiesced in.

In the war which Queen Anne declared against France, both the New England colonies and the French settlements were again subject to mutual incursions. In 1707, an unsuccessful attack was made on Port Royal, the chief town in Acadie, by a force principally from Massachusetts and Rhode Island; and Massachusetts

<sup>1</sup> He had, however, been previously nominated by her predecessor, in consequence of the support he had received from Cornbury’s father.

<sup>2</sup> Smith’s History of New Jersey.

was also invaded by the French. But two years afterwards, in another attack on Port Royal from the same two colonies, aided by troops from England, the town was taken, and received the name of Annapolis Royal.

In the following year another joint expedition was undertaken against Quebec, to which all the colonies contributed their quotas of troops. This enterprise proved most disastrous. Eight of the transports were wrecked, and near a thousand persons perished; upon which the fleet returned to England. In the treaty of Utrecht, which terminated the war, Acadie and Port Royal, since called Nova Scotia and Annapolis, were ceded to England.

In the same war there was also an expedition against St. Augustine in Florida, from Carolina, which utterly failed. Another was afterward attempted by the Spaniards against South Carolina, in which the invaders met with a signal repulse.

A general massacre of the people of North Carolina was attempted by the Tuscarora Indians in 1713, and one hundred and thirty-seven whites were destroyed in one night. Prompt aid having been afforded by South Carolina, the Indians were completely subdued. They soon afterward left the country, and uniting themselves with the Five Nations,<sup>1</sup> they have been since often called the "Six Nations."

Most of the colonial legislatures had hitherto been in the habit of making liberal donations to their governors, and to grant them salaries for a single year. But it was now apprehended in England that this practice gave to the colonies a dangerous influence over the representatives of the royal authority. They were therefore in-

<sup>1</sup> These were originally Iroquois, and consisted of Mohawks, Oneidas, Onondaguas, Cayugas, and Senecas.

structed by the ministry of Queen Anne to receive no more presents, and to endeavor to obtain permanent salaries. But the same considerations which induced the government to abolish the practice, induced the colonies to maintain it. It was a subject of controversy between the government and Massachusetts for nearly thirty years, during which time it was the theme of almost yearly altercation. The perseverance of the colony finally prevailed; and the Governor, after being, for two or three successive years, allowed, on special applications from the Legislature, to receive temporary grants, finally obtained a general permission to receive them.

There had also been disputes, in the same colony, between the Legislature and the Governor, as to the exclusive right of the General Court to appoint its own speaker, and to adjourn without requiring the concurrence of the Governor; both of which points were decided in England against Massachusetts by an explanatory charter, which the colony reluctantly accepted.

The treaty of Utrecht, which had given peace to France and England, had not also produced amity between either those nations or their American colonies. The hostile incursions of Indians on the New England settlements, after the cession of Acadie, was imputed by the colonists to the intrigues of the French, who were known to have great influence, through their missionaries, with the Indian tribes. A prudent regard to the future, therefore, made it desirable to the English colonies, to obtain command of Lake Ontario, which lies between New York and Canada. With this view Governor Burnet, of New York, erected a trading house at Oswego, on that lake.

This naturally exciting the political and commer-



cial jealousy of the Governor of Canada, he erected both a store-house and a fort on lake Ontario, in spite of the remonstrances of Burnet, who then in turn erected a fort at Oswego. The French, after meditating an attack on this fort, contented themselves with taking possession of Crown Point, and fortifying it, which measure gave them the entire command of Lake Champlain. Remonstrances on both sides were all the effect then produced by these indications of mutual hostility.

After a massacre of the whites in South Carolina by the Yemassee Indians, the people of that colony, more dissatisfied than ever with the proprietary government for not affording them adequate protection, determined to rid themselves of it; and, with that view, proposed to the Governor to continue in authority in the name of the king; but he refusing, they chose a governor of their own, elected a council, and thus perfected a civil revolution. Many of the proprietors acquiesced in the change, and, for a sum of money, surrendered all their rights and interests to the Crown. Eleven years after the surrender, the royal province was divided into North and South Carolina.

In 1732, James Oglethorpe and others obtained a grant of the English territory south of Carolina, and extending to the Pacific, for the purpose of establishing there a colony, which professed to be "an asylum for the destitute," and to which they gave the name of Georgia, after their sovereign George the Second. Early in the following year Oglethorpe arrived in his new domain with one hundred and sixteen persons, and having laid out the town of Savannah, on the river of that name, he began the settlement of the last of the English colonies within the present limits of the United States, one hundred and twenty-six years after Virginia was settled.

He, like Penn, at once secured the good-will and confidence of the aborigines by an acknowledgment of their paramount right to the soil.

The colony did not at first prosper, as some of its regulations tended more to repel settlers than to invite them. Yet, since one of the avowed objects of the settlement was to afford a place of refuge to the persecuted Protestants, many of those who dissented from the established religion of their country, flocked thither; and among them, Moravians from Germany, and John Wesley with his brother from England.

During the war with Spain which soon followed, Oglethorpe, who had been made a general, and placed at the head of the English troops sent to Georgia, undertook an expedition against Florida; but it failed from causes unforeseen and beyond his reach. Georgia, in turn, was invaded by a large Spanish force, but most of the invaders were killed or captured by Oglethorpe.

With all his merits he was not popular with the colonists; and, in 1743, he returned to England to answer the accusations against him for misconduct in the expedition against Florida. He was honorably acquitted, and, remaining in England, he lived to a protracted old age.

Oglethorpe belonged to a small class of the first English settlers in America, among whom John Smith, John Winthrop, Sir George Calvert and William Penn<sup>1</sup> are most

<sup>1</sup> The character of William Penn has been severely assailed by an eminent living historian; but, supposing the failings of which he speaks to have been unquestionable, what can they weigh against the wisdom and beneficence displayed by Penn in founding the noble Commonwealth of Pennsylvania? It scarcely becomes that great writer — for great he assuredly is — thus to search out the little vulnerable points which, in Penn's character, are like the heel of Achilles, and aim his shafts at the well-earned reputation of his illustrious countryman.

conspicuous — who present the fairest specimens of the English character in wise and bold enterprise, in constancy of purpose, and above all, in enlarged and untiring benevolence; and whose invaluable services on this continent, of which millions even now unconsciously partake the benefit, should go far to redeem the injustice done to our rights, interests, and fair fame by too many of their countrymen.

At first slavery was not permitted in Georgia by its settlers; but as it adjoined South Carolina, and had, like that province, a climate which was much better suited to the African, than to the white race, their purpose was defeated. Negro slaves were gradually introduced; and their labor proving profitable, the colony then first began to thrive.

During these transactions in Georgia, South Carolina was harassed first by an insurrection of the negroes, in which twenty whites<sup>1</sup> lost their lives, and then by a fire, which completely destroyed Charlestown.

In the progress of these twelve colonies their commercial relations with the mother country, as well as their political, had undergone considerable changes.

At first the colonies were suffered to exercise the common rights of Englishmen, and to trade with any country or nation they pleased. But in consequence of the Virginia company (the original patentees of that colony) sending their tobacco to Holland, the king in council put an end to this traffic — declaring that “a foreign trade is as inconsistent with the view in planting of Virginia, as with just policy or the honor of the State.”

Yet this prohibition was not strictly enforced, and tobacco and other commodities were often sent directly

<sup>1</sup> These were partly colonists, and partly the European proprietors of a large warehouse, containing guns and ammunition.



from Virginia to foreign countries.<sup>1</sup> These restrictions continuing to be evaded, in 1651 a law was passed which restricted the trade with the plantations, as well as with other parts of the world, to English-built ships, belonging to English subjects at home, or in the plantations, unless the articles were produced in the country owning the foreign ships. This navigation act began that much vaunted system of policy to which the commercial and naval greatness of England has been mainly attributed.

In 1660 an end was put to the export trade with the colonies in ships of foreign nations, it being then enacted that tobacco, as well as the products of the West India Islands, should be carried only to England; and, three years later, a like restriction was imposed on the imports of all European commodities into the colonies, except salt for the fisheries, wines from Madeira and the Azores, and provisions from Scotland for the plantations.

The reasons expressly assigned for these commercial restraints were "to keep the colonies in a state of dependence upon England, and to afford further employment and increase of English shipping and seamen, and vent of English woollens and other commodities."

Here was first manifested that jealousy which would naturally arise between countries so fitted to be rivals in commerce.

This jealousy was in no long time extended to the trade of the colonies with one another. In 1672 a further restriction was imposed, when certain colonial pro-

<sup>1</sup> In Charles's instructions to Sir William Berkeley, as Governor of Virginia, in 1639, the Governor was enjoined to prohibit any commerce of the colony with foreign nations; and, to secure the benefits of the colonial monopoly, the master of each vessel sailing from Virginia was required to give bond to land his cargo in some part of the king's dominions in Europe. — Chalmers' Annals.

ducts shipped from one colony to another, were subjected to duty.

The people of Virginia complained of these acts, but their application for relief was disregarded.

In Massachusetts and Rhode Island, however, the same acts were, for a long time, not enforced. These colonies maintained that the restrictions being contrary to their charters, were not binding. Yet the Legislature of Massachusetts was induced, in 1678, to enforce them, by a law of the colony. The people of Carolina urged the same objection to these acts.

That these and the like restrictions on the commerce of the colonies should be enforced, a Board of "Trade and Plantations" was established in 1696.

The governors of the colonies were required to take an oath that they would see to the execution of the Navigation law, and as a further measure of precaution, the sanction of the king was required to the appointment of the *proprietary governors*.

The list of colonial articles which could be exported nowhere but to England, was extended to every kind of naval stores, rice, masts, furs, &c.

As the New England colonies carried on a lucrative traffic with the French, Spanish, and Dutch West Indies in fish, lumber, horses, &c., with the view of favoring the English Islands, heavy duties were laid on rum, sugar, and molasses imported from foreign colonies. But this law, so injurious to the commerce of New England, it was found impracticable to enforce.

As soon as the colonies began to manufacture for themselves, as they did in time, this branch of industry also became an object of jealousy in England. In 1699 it was enacted that no wool, yarn, or woollen manufac-

tures should be exported from any of the "English Plantations in America" to any foreign state.

In 1719 Parliament declared that "the erection of manufactures in the colonies tended to lessen their dependence upon Great Britain;" and in 1731 the Board of Trade was directed to inquire into and report the laws made, manufactures set up, or trade carried on, detrimental to the trade, navigation, or manufactures of Great Britain. In the report then made by the Board, the manufactures of wool, flax, iron, paper, hats, and leather are mentioned as injurious to the mother country. These manufactures, they say, are chiefly in the colonies to the northward of Virginia, which having no staple commodities of their own, are more under the necessity of providing for themselves at home.

As hats were extensively manufactured in America, from the abundance of furs yielded by her forests, their exportation was prohibited in 1732, even from one colony to another; and no hatter was allowed to have more than two apprentices at once, or to make hats unless he had served an apprenticeship of seven years.

By another act in 1750 all mills or engines for slitting or rolling iron, or forges to work with a tilt-hammer, or furnaces for making steel were prohibited; and to arm government with the summary process permitted in the abatement of nuisances, every such prohibited work was declared to be a common nuisance, and the colonial governors were required to abate it.

The paper-money of the colonies also afforded occasions for the Parliament to exercise a control over the colonial Legislatures, and, consequently, became a further source of collision.

These colonies had from the first experienced that in-



sufficiency of capital to meet their growing wants which has ever attended new settlements; and in nothing was this want of capital more manifested than in the scarcity of currency, which was the greater because money admits of the substitutes of barter and credit. Hence it was, that the first settlers in New England used the Indian *wampum* and beaver-skins as currency; that fish was used in Newfoundland, and tobacco in Virginia, for the same purpose. The scarcity of gold and silver in the colony might have been increased by the restraints on their commerce and industry, but it would have existed under any circumstances, as we always see in our rising towns in the West.

With this deficiency of money in the colonies, when they were involved in the expense of raising and paying troops, they were induced to issue bills of credit, or promissory notes, which being payable to bearer, and divided into sums of small amount, answered the purposes of currency; and they were subsequently led to further issues, as a cheap and ready way of remedying the general scarcity of money.<sup>1</sup>

Massachusetts thus issued such bills in 1690 to pay her army on its return from an unsuccessful invasion of Canada. She made another issue, on a like occasion, in 1707. South Carolina issued similar bills in 1702 to

<sup>1</sup> Adam Smith thus explains and justifies the use of paper-money:

"It is convenient for the Americans, who could always employ with profit in the improvement of their lands a greater stock than they can easily get, to save as much as possible the expense of so costly an instrument of commerce as gold and silver, and rather to employ that part of their surplus produce which would be necessary for the purchase of those metals, in purchasing the instruments of trade, the materials of clothing, several parts of household furniture, &c.—not dead stock, but active and productive stock." — III. *Wealth of Nations*, 453.

pay the debt contracted by her invasion of St. Augustine; and she made a further emission in 1713 to meet the expense of repelling the Spanish invasion.

In the same year, to defray the cost of an expedition against Canada, New York issued bills to the amount of twenty thousand pounds, Connecticut of eighty thousand, and New Jersey of three thousand.

These bills of credit being redeemable at a distant day, and being commonly issued in excess, gradually depreciated, although, to sustain their credit, the colonial Legislatures had made them a legal tender.

As this provision proved injurious to the British merchants, to whom the colonists were generally indebted, the governors of the colonies were at length instructed to prevent the passage of any law authorising further issues of paper.

This restriction created great alarm in Massachusetts, where the paper currency being redeemed in annual quotas, must be continually diminishing, unless they could make new issues. They therefore devised the expedient of a currency to be issued by a land bank, for which a company was promptly formed; but, before it obtained a charter from the colonial Legislature, the company was dissolved by an Act of Parliament.

The inconvenience of this restriction of paper-money was augmented in Massachusetts, by the exemption of Rhode Island from its operation, since, by her charter, the Governor was not appointed by the Crown, and he either received no instructions from England, or disregarded them. Thus unrestricted, she exercised her power very liberally, and her issues contributed still further to the depreciation of paper-money, so that an ounce of silver which was worth but five shillings and two pence sterling, came to be worth in New England

twenty-seven shillings currency.<sup>1</sup> An act of Parliament was finally passed that no paper-money should be a legal tender in the colonies.

With the disposition thus plainly and frequently manifested on the part of the mother country to draw the cords of colonial dependence tighter, and from their efforts equally constant to resist or evade the trammels imposed on their commerce and manufactures, even then men discussed the problem whether this conflict of feelings and interests would not lead to a separation as soon as the colonies had sufficient strength to effect it; and it is interesting, at the present day, to notice the various speculations which then prevailed on this great question.

In 1755, John Adams, at that time the teacher of a village school, made the following memorable reflections in his diary :

“Soon after the Reformation, a few people came over into this new world for conscience’ sake. This apparently trivial incident may transfer the great seat of empire into America. If we can remove the turbulent Gallies, our people, according to the exactest calculations, will, in another century, become more numerous than England itself. All Europe will not be able to

<sup>1</sup> The depreciation of the paper-money of the colonies is thus stated by Anderson in 1789, Vol. III. p. 498 :

In New England, for £100 sterling..... £525 currency.

“ New York, “ “ ..... 160 “

“ The Jerseys “ “ ..... 160 “

“ Pennsylvania “ “ ..... 170 “

“ Maryland “ “ ..... 200 “

“ North Carolina “ “ ..... 1400 “

“ South Carolina “ “ ..... 800 “

Virginia is not included in this list, because she then had no paper-money; but she was induced, a few years later, to follow the example of her sister colonies; and at the breaking out of the Revolution, she had a large public debt, of which this paper currency was the evidence.



subdue us. The only way to keep us from setting up for ourselves is to disunite us.”<sup>1</sup>

About the same time Hume, in his history of the House of Stuart, thus wrote :

“Speculative reasoners, during that age, raised many objections to the planting of those remote colonies, and foretold that, after draining their mother country of inhabitants, they would soon shake off her yoke, and erect an independent government: but time has shown, that the views entertained by those who encouraged such generous undertakings were more just and solid. A mild government and great naval force have preserved, and may still preserve, during some time, the dominion of England over her colonies. And such advantages have commerce and navigation reaped from those establishments, that more than a fourth of the English shipping is at present computed to be employed in carrying on the traffic with the American settlements.”<sup>2</sup>

Another writer, at that period, cited by Anderson, in speaking of these colonies, says :

“That their growth may render them dangerous I have not the least conception. We have already fourteen several governments on the maritime coast of the continent; and shall probably have as many more behind them on the inland side. Their jealousy of each other is so great, that they have never been able to effect such a union among themselves, nor even to agree in requesting the mother country to establish it for them. If they could not agree to unite for their defence against the French and Indians, who were perpetually harassing their settlements, burning their villages, and murdering their people, is there any danger of their

<sup>1</sup> Adams's Diary, 264, cited in IV. Bancroft, 215.

<sup>2</sup> Hume's History — Appendix to James the First.

uniting against their own nation, which they all love much more than they love one another?"

In 1755 Governor Shirley thus wrote to Sir Thomas Robinson :

"Apprehensions have been entertained that they will in time unite to throw off their dependency upon their mother country, and set up one general government among themselves. But if it is considered how different the present constitutions of their respective governments are from each other, how much the interests of some of them clash, and how opposed their tempers are, such a condition among them will seem highly improbable. At all events, they could not maintain such an independency without a strong naval force, which it must for ever be in the power of Great Britain to hinder them from having ; and whilst His Majesty hath seven thousand troops kept up within them, with the Indians at command, it seems easy, provided his governors and principal officers are independent of the Assemblies for their subsistence, and commonly vigilant, to prevent any step of that kind from being taken."<sup>1</sup>

Such seem to have been the sentiments of the British ministry a few years later, when, acting in accordance with these views, they brought about that separation, which, under more prudent and temperate counsels, might have been postponed one or two generations longer.

Let us now trace the course of events by which this result was hastened.

In the war which France declared against England in 1744, an expedition against Louisburg, in the Island of Cape Breton, was set on foot by Massachusetts, under

<sup>1</sup> IV. Bancroft, 214.

the auspices of Governor Shirley, and with aid from other colonies, chiefly of New England. It proved completely successful; and the place, after a short siege, conducted without skill, surrendered. Their exploit filled their inexperienced minds with astonishment, when they beheld the strength of the fortifications they had captured. This expedition was commanded by William Pepperell, a merchant of Maine, who was rewarded for his success by the honor of knighthood.

Encouraged by this achievement, the conquest of Canada was planned, but the offensive operations of the French compelled the English colonists to defer the attempt, until the peace of Aix-la-Chapelle put an end to hostilities, and restored Cape Breton to France.

The interests of the two nations on this continent clashed too much to allow them to remain long at peace. The limits of Nova Scotia were still contested; and, what was of far greater importance, those of Louisiana, as claimed by France, threatened the future safety of all the British provinces.

Great Britain had always claimed the lands in America which extended from the Atlantic coast discovered by Cabot to the Pacific; and such had been the extent of her colonial grants. On the other hand, France, on the ground of having first discovered the river Mississippi, claimed all the land on both sides of that vast river, from its source to its mouth, and as far east as the great Appalachian chain of mountains, so as to reduce the British settlements to a long narrow slip of territory, which has been aptly described as the cord of an immense bow, formed by the French settlements from Canada to the mouth of the Mississippi; and she prepared to secure the possession of the domain she claimed by a chain of



posts along its eastern frontier from Quebec to New Orleans.

With the view of checking these encroachments of the French, and of having a settlement to the west of the Alleghany Mountains, the British government had, in 1749, granted five hundred thousand acres of land in the valley of the Ohio to a company formed in England and Virginia, whose ostensible purpose was to trade with the Indians. The company sent settlers to the Ohio river, and there erected a fort.

The Governor of Canada remonstrated against this intrusion, as he called it, on the dominions of France; and threatened that if the English persisted in trading with the Indians, he would arrest them. This he accordingly did, and carried his prisoners to the French fort at Presq' Isle. A road being then made by the French on the lands granted to the Ohio company, Governor Dinwiddie of Virginia despatched to the French commandant George Washington, a young officer, whose character then received its first gleam of that glory which beamed with such splendor at a later period, requesting him to withdraw from the dominions of the king of Great Britain; to which letter an unsatisfactory answer was returned.

A regiment was raised in the following year to defend the frontier. Washington, then second in command, proceeded with his small force to the West, where he encountered and defeated a party of the French under Jumonville. By the death of Colonel Fry, while on his way to join his regiment, the chief command devolved on Washington, whose fate it was to be defeated and captured by the enemy, by which turn of fortune, however, he lost no reputation at home.

The French had already erected a fort at the junction

of the Monongahela and Alleghany, which they called Fort Duquesne, and which subsequently became the site of the flourishing city of Pittsburg. War was now inevitable, and both parties began to prepare for it.

The British ministry instructed the colonial Governors to remove the French from the Ohio, by force, if necessary; and they also recommended union among the colonies for their natural defence. A convention of delegates from seven of the colonies accordingly assembled at Albany to hold a conference with the Five Nations, whose friendship would be so important in a war with France.

A plan of union — which was to have the sanction of Parliament to give it efficacy — was then recommended, by which representatives chosen by the colonies were to have power to levy forces by land and sea, lay imposts and taxes, and appoint officers; — the grand council to consist of forty-eight members, distributed among eleven colonies, under a President-general to be appointed by the Crown.

The plan of this confederacy was unacceptable to all parties. It was not approved in the colonies, on account of the large powers given to the President, dependent as he would be on the Crown; and it was not approved in England, because, in the temper manifested of late in most of the colonies, an organized corporation might be dangerous to the authority of the mother country. The scheme was therefore abandoned.

To take command of the army in America the ministry appointed General Braddock, an officer of high reputation, who, by appointment, attended a general meeting of the royal governors, at Alexandria, to consult on the affairs of the colonies. It was then unanimously recommended to raise a revenue in America, which all the

officers of the Crown seemed then to think was as practicable by the agency of Parliament, as it was just and expedient.

In the same year Braddock, with Washington as his aid, set out in his march to the west, at the head of eighteen hundred men, in two divisions, to take possession of Fort Duquesne; and when within twelve miles of the spot, in full confidence of his superiority, he was attacked by a joint force of French and Indians in ambush, and sustained a total defeat, with the loss of his own life. He fell the victim of his undue reliance on military skill and discipline, contempt of his barbarous enemy, and utter disregard to the prudent counsels of young Washington.

General Loudoun was appointed his successor, and then it was determined by the ministry to keep up a standing force in America, and to quarter the troops in the colonies without consulting their Legislatures.

War was formally declared by England in May, 1756, and the first operation in America was the capture of Fort Oswego by Montcalm, the Governor of Canada. Loudon, on his part, attempted nothing offensive, to the great disappointment and mortification of the colonies.<sup>1</sup>

But William Pitt became minister, and the effect of his vigor and decision was soon manifested in America, as well as other quarters of the world. Louisburg surrendered, after a siege of eight days, to General Amherst, and Fort Oswego was recaptured by Bradstreet. But, on the other hand, an attack on Ticonderoga was repulsed by Montcalm. Fort Duquesne had been abandoned and destroyed by the French. General Forbes subsequently took possession of its site: he built a fort there,

<sup>1</sup> I. Marshal, 410.



and called it Fort Pitt. Fort Niagara capitulated to Sir William Johnson; and lastly, both Ticonderoga and Crown Point were abandoned by Montcalm, that he might be better able to defend Quebec.

The attack on this place had been confided to General Wolfe, who, though yet a young man, had already acquired a high reputation, and was deemed worthy of encountering the skilful and gallant Montcalm. He well justified these favorable expectations. Quebec also yielded to the British arms, and its capture was rendered more memorable by the death of the victorious general, who fell at the head of his troops; and also by the death of the French commander, Montcalm — both of them equally esteemed by their respective nations for their bravery, military skill, and devotion to their country.

Mons. De Levi, the French officer next in command, made an attempt to regain Quebec, and might have succeeded but for the opportune arrival of an English fleet in the St. Lawrence. He then withdrew his troops to Montreal, where Mons. de Vaudreil, now Governor of Canada, had collected all his forces. Unable, however, to withstand the superior force of the British, he finally capitulated. With Montreal surrendered Detroit, and all the other strong places in Canada; and thus terminated the French dominion in North America. Informal cession to Great Britain was subsequently made by the treaty of Paris.

But while the conquest of Canada annihilated the power of France in America, it tended to lessen the dependence of the British colonies on the mother country. Their collisions and wars with the French settlements and their Indian allies obviously served to bind them more closely together; but when this outward pressure was withdrawn, they would be more likely to feel and

resist the restrictions imposed by the interests or the jealousy of the mother country.<sup>1</sup>

The glory acquired by England in the recent war had raised her pride of power and her military reputation to a point never before reached, and this exaltation probably had its influence on the course of the ministry towards the American colonies. It was thought a favorable time to draw tighter the cords of dependence and submission, more and more endangered by the growing numbers and wealth of the colonists, and to make that wealth more directly tributary to the mother country, which had expended so much of her own for their exclusive benefit.

The colonies had long carried on a very active illicit trade with the Spanish settlements in America, and even with the French, by which they not only obtained the products of those settlements on better terms, but also a considerable sum in specie, which assisted them in paying a large balance annually due to the mother country. The British government now determined to make this trade a source of revenue, and the rather as it was injurious to the interests of the British West Indies, as well as to the East India Company. They accordingly, in April 1764, imposed heavy duties on all the commodities imported from those foreign settlements into the British colonies, and required the money to be paid into the British exchequer. The better to secure the execution of these enactments, the officers of the navy were required to perform the duties of custom-house officers, and, like

<sup>1</sup> Mr. Bancroft cites several curious predictions of this result, which were made at the time; and it doubtless would eventually have taken place; but since the stamp act was proposed immediately after the peace of 1763, the cession of Canada could hardly have had any influence in producing the opposition of the colonies to that measure.—IV. Bancroft, p. 460.

them, were rewarded by a share in the forfeitures then imposed. They also passed an act declaring that no paper-money to be thereafter issued in the colonies should be a legal tender, and that such paper as had been previously made a legal tender, should not so continue after the time appointed for its redemption.

But this was not all. To carry only the settled purpose of the administration, George Grenville, then chancellor of the exchequer, immediately after the passage of the act for the more strict enforcement of the navigation laws, introduced a resolution which declared it was expedient to raise a revenue in the colonies by a duty on stamps.<sup>1</sup> In proposing this internal tax, he ventured on a measure from which two of the boldest of his predecessors had shrunk, at a time when the colonies had not attained their present numbers and strength. Yet the caution with which he proceeded in its execution showed a distrust of the temper with which the colonies would be likely to receive it; for after the resolution was passed, he informed the agents which the colonies severally had in London, that he purposely delayed any action on the resolution, that their constituents might have an opportunity of suggesting such other modes of raising revenue as would be more agreeable to them: to which communication the agents replied by expressions of gratitude for the considerate regard the minister had manifested towards the colonies.

By way of further reconciling the colonies to these

<sup>1</sup> Mr. Bancroft states, on the authority of Charles Jenkinson and others, that the stamp act was first suggested by some supporter of the king's wishes, against the opinion of Grenville; yet the latter defended the child by adoption with all a parent's love; and he maintained to the last that if he had continued in the ministry he would have carried it into execution. —V. Bancroft.



unpalatable measures, several acts for their benefit were passed. The bounty on hemp raised by them was increased; the rice of South Carolina and Georgia was allowed to be carried to the foreign West Indies; and to benefit New England, the bounty given to the British whale-fishery was to be gradually withdrawn.

These legislative boons failed of their purpose in the colonies, which, so far from availing themselves of the minister's offer to suggest a substitute for the proposed stamp tax, denied the right of the British Parliament, in which they were unrepresented, to tax them at all. Such were the declarations of the Legislatures of Massachusetts, Rhode Island, New York, Virginia, and North Carolina; and at the same time associations were formed to abstain from the use of such British manufactures as were not indispensable.

Their opposition was, however, little regarded, and at the succeeding session, Grenville introduced a series of resolutions for laying duties on stamps in America. Though his resolution at the preceding session had called forth no debate, and no response had been made to his inquiry whether any member denied the right of Parliament to lay such a tax, yet the subject now gave rise to an animated debate. One particular passage stands out in relief from the rest, and has found a place in every American history.

In an expostulation by Charles Townshend, one of the warmest supporters of the measure, he asked, "Will those American children planted by our care, nourished by our indulgence to a degree of strength and opulence, and protected by our arms, grudge to contribute their mite to relieve us from the heavy burden under which we lie?"

On which Colonel Barré, who, having served in

America, claimed to speak of the colonists from personal knowledge, indignantly retorted :

*“ They planted by your care !* No—your oppressions planted them in America. They fled from your tyranny to a then uncultivated, inhospitable country, where they exposed themselves to every hardship, and to the cruelties of a foe the most subtle and formidable of any people upon God’s earth.

*“ They nourished by your indulgence !* They grew by your neglect of them. As soon as you began to care about them, you sent persons to rule them, to spy out their liberties, to misrepresent their actions, and to prey upon them—men whose behavior has often caused the blood of those sons of liberty to recoil within them.

*“ They protected by your arms !* They have nobly taken up arms in your defence ; have exerted a valor amidst their constant and laborious industry for the defence of a country, whose frontier was drenched in blood, while its interior yielded all its little savings to your emolument. . . . The people, I believe, are as truly loyal as any subjects the king has ; but a people jealous of their liberties, and who will vindicate them if ever violated.”

While this generous burst of truth and eloquence meets with a grateful response in every American bosom, it produced no other effect than a passing admiration on its interested hearers.

A bill in conformity with the minister’s resolutions was then brought in and passed both Houses, with feeble opposition in the House of Commons, and none at all in the House of Lords. The royal consent was given by commission, in consequence of the king’s indisposition, which it is since known was the same mental malady with which he was subsequently so long afflicted.

The minister made some further attempts to conciliate the colonies by additional commercial favors, and by selecting the officers of the stamps from the colonists, on the recommendation of their colonial agents. Among those thus selected was Dr. Franklin.

When the news of this odious act reached America, the indignation of the colonists knew no bounds. In some places the bells were made to toll, and the colors were at half-mast, to denote their sense of the general calamity. Those who brought out stamps were compelled to surrender them; and those who had undertaken to distribute them were made to renounce that office, sometimes upon oath.

Then too the literary talents of the colonies were put in requisition. But the writing class, from the prevalent habits and pursuits of the colonists, and the want of the requisite mental culture, was a small one. John Dickinson of Delaware, James Otis of Massachusetts, and Richard Bland of Virginia, seem most to have attracted the notice of their countrymen.

The Legislature of Virginia happened to be in session when the passage of the act was first announced, and then it was that Patrick Henry, a young and almost self-educated orator, electrified his brother members by the boldness of the resolutions he brought forward in support of colonial rights,<sup>1</sup> and the yet greater boldness with which he supported them. In the course of his impassioned harangue he cried, "Cæsar had his Brutus; Charles the First his Cromwell; and George the Third"—here the cry of "Treason! treason!" resounded on all sides—added the self-possessed orator, "may profit by their example. If this be treason, make the most of it." His resolutions,<sup>2</sup> denying the right of Parliament to lay

<sup>1</sup> Wirt's Life of Henry.

<sup>2</sup> May 30, 1765.



taxes on the colony, were carried against the sense of the older and more prudent members.

The Legislature was forthwith dissolved by the Governor, but the resolutions<sup>1</sup> were soon diffused by the newspapers throughout all the colonies, were virtually adopted by the American people, and formally adopted by some of the Legislatures.

In Massachusetts the proposition made in its Legislature by James Otis, one of the most prominent for zeal and ability in vindicating colonial rights,<sup>2</sup> to call a general congress of the colonies to meet in New York in October, was adopted.<sup>3</sup>

In consequence of this recommendation, deputies chosen by the Legislatures of Massachusetts, Connecticut, Rhode Island, Pennsylvania, Maryland and South Carolina, and by inferior authorities in New York, New Jersey, and Delaware, assembled at New York;<sup>4</sup> and, after a declaration of their exclusive right to tax themselves, they, with equal temper and decision, addressed the king and each House of Parliament on the subject of their grievances. They adjourned on the 25th of October, after a session of eighteen days.

New Hampshire, though not averse to their purpose, had not thought it prudent to send deputies;<sup>5</sup> and the Legislatures of Virginia and North Carolina were not in session when the circular letter of Massachusetts was issued. Georgia sent an express to obtain a copy of the proceedings of the Congress.

At the same time associations were formed throughout the colonies to abstain from the use of British

<sup>1</sup> See these Resolutions in Appendix, I.

<sup>2</sup> See Tudor's Life of Otis.

<sup>3</sup> June 6, 1765.

<sup>4</sup> October 7, 1765.

<sup>5</sup> II. Belknap's New Hampshire.

fabrics; to wear homespun; to encourage domestic manufactures; to dispense with the ordinary badges of mourning; and to use all their means of increasing the number of their sheep.

So effectual had been the opposition to this hated act, that on the 1st of November, 1765, when it was to go into operation, it is said there was neither a stamp, nor a stamp officer, to be found throughout the colonies.

A change of the British ministry took place in the summer of 1765, unconnected with American affairs, but in consequence of some personal dislikes of the king. The Marquis of Rockingham was placed at the head of the treasury, and though he and some others of the ministry were opposed to the stamp act, there was then no intention of repealing it. But at the ensuing session of Parliament, Pitt, whose support the ministers had courted, and whose opposition they felt themselves not strong enough to encounter, made a powerful speech in favor of an instant and unconditional repeal of the stamp act, denying that America, being unrepresented in Parliament, could be legally, constitutionally or reasonably taxed by that body, but at the same time asserting its unlimited right to regulate their trade and manufactures — adding that if this power were denied, he would not permit them to manufacture a lock of wool, or make a horseshoe or hobnail. He was warmly and ably opposed by Grenville, and by the favor of the House was permitted, or rather called upon to make a second speech. His eloquence, backed by his popularity, by the seeming impossibility of executing the law in America without force, and by the clamor of the merchants and manufacturers of Great Britain, proved decisive. After some time spent in discussing the question of hearing the petitions of Congress, in reading papers relative to riots in

New York and Rhode Island, and in the examination of witnesses, among whom was Dr. Franklin, the repeal was carried by two hundred and seventy-five votes against one hundred and sixty-seven; and in the Lords, where the repeal was supported by Lord Camden, it was carried by one hundred and five to seventy-one, on the avowed ground that the act would be "productive of consequences greatly detrimental to the commercial interests of these kingdoms."

A declaratory act was at the same time passed, asserting in the most unqualified terms the rightful power of Parliament to bind the colonies in all cases whatever, and that all declarations of the colonial Assemblies to the contrary were null and void.

The repeal diffused joy and exultation throughout the colonies. Yet it soon appeared that the reconciliation between them and Great Britain was not cordial, or likely to be lasting. The Declaratory Act was indeed little heeded, it being at first regarded as the abstract assertion of a right against an actual surrender of it; but the duties on imports remaining unrepealed, so far as they were prohibitory, they deprived the colonies of a most gainful traffic; and so far as they were operative, they were viewed by the more intelligent colonists as real taxes under the form of regulations of trade.

Great Britain, on the other hand, was offended by the bold denial made by some of the colonial Legislatures of her right to tax the colonies in any case. Nor was this all. Those Legislatures had been requested by their respective Governors to compensate such individuals as had suffered in their attempts to execute the stamp act; and Massachusetts, in her act of indemnity, gave "a free pardon to all offenders," and used other expressions equally offensive to the asserters of British supremacy.



The Legislature of New York had also given great offence. It had refused to pass such laws for the accommodation of quartered troops as were required by act of Parliament. There was also a partial opposition to the same act in Massachusetts, New Jersey and Georgia.

With these causes of mutual irritation, and when the colonies openly and unanimously denied the right of Great Britain to tax them, while a large majority of the British nation insisted on the right, and believed it to be essential to secure the dependence of the colonies, a question deemed so momentous by both parties was not likely to remain long unsettled.

The ministry was again changed, and assigned to men whose sentiments towards America were more in accordance with those of the king. The new chancellor of the exchequer was Charles Townshend, of shining parts rather than a wise statesman, and who had been among the foremost in resisting the claims of the colonists. He brought in a bill for laying duties on tea, glass, paper, and painters' colors imported into the colonies; which passed without much opposition — the duties not being very heavy, and being moreover regarded as regulations of trade.

But the distinction which had been made between internal and external taxes both in England and the colonies, was no longer recognised in Massachusetts, where the subject had been more fully discussed. That colony showed the same opposition to these new duties that they had shown to the stamp act, and, at the first meeting of the General Court after they had received intelligence of the passage of Townshend's bill, they addressed a circular letter to all the colonies, and proposed that they should unite in adopting the best modes of defending their rights; and for that purpose should

have a mutual correspondence. They at the same time sent a petition to the king, a representation to the ministry, and instructions to their provincial agent in England.

These occurrences in Massachusetts having been the subject of free animadversion by Governor Bernard to the ministry, Lord Hillsborough, the secretary of state, instructed Bernard to require of the Legislature of Massachusetts to rescind the resolution which had authorised the circular letter to the colonies, and he at the same time wrote to the governors of the other colonies censuring the Assembly of Massachusetts. The Governor accordingly called upon the General Court to rescind the offensive resolution; but they replied that they had no power to rescind the act of a former Legislature; which act, moreover, they openly justified.

A riot took place in Boston in consequence of the seizure of a vessel from Madeira belonging to John Hancock, in which the officers of the customs were insulted, and their lives endangered. The commissioners of the customs recently appointed to execute these new measures, alarmed for their safety, took flight. Bernard dissolved the Assembly.

But another occurrence influenced the public mind yet more. On the arrival of the troops sent to Boston to intimidate the colonists, and if necessary, to compel their submission, the people of Boston lost no opportunity of showing their hatred and ill-will towards these troops. On some act of unusual provocation, a portion of a company under Captain Preston fired on the townsmen, and three men were killed. This affair, which was called the "Boston massacre," was diligently improved into the means of inflaming the passions of the people to the highest pitch.

The ill treatment received by Massachusetts met with the ready sympathy of the other colonies, and her firmness won their highest admiration.

In the spring of 1770 all the duties laid by Townshend's bill were repealed, except that on tea, which the ministers insisted on retaining for the purpose of supporting that right to tax America which they asserted, and which, as it substituted a duty of three pence per pound, for that of a shilling a pound paid as an export duty, would practically supply them with tea at ninepence per pound less than they had previously paid. This measure was carried in the House by two hundred and four votes to one hundred and forty-two.

The motives assigned by the ministers for the bill were the "dangerous combinations which the proposed duties had occasioned" beyond the Atlantic,<sup>1</sup> and the dissatisfaction they had created at home among the merchants who traded to the colonies.

Among the occurrences of this period two may be mentioned, very different in their character, but both showing the readiness of the colonists to resist what they regarded as oppression. One was a popular insurrection in North Carolina in 1771, caused by the alleged extortion of illegal fees by the public officers, and the lawyers, and the peculation of the receivers of taxes. They called themselves Regulators, a term borrowed from a voluntary association in South Carolina for the punishment of horse-thieves and other offenders. After four or five years of complaint, a large body of the Regulators from several of the middle counties tumultuously assembled in May, 1771, with Herman Husbonds,<sup>2</sup> originally from

<sup>1</sup> Ann. Regis. 1770, page 73.

<sup>2</sup> This man, after the lapse of more than twenty years, took a leading



Pennsylvania, as their leader, to demand a redress of their grievances. Governor Tryon set out from Newberne with three hundred militia to quell the insurrection, and on his march was joined by large reinforcements of volunteers. He met the insurgents then posted on the Alamance, a small branch of Haw river, and consisting of about two thousand men, most of whom were ill-armed or without arms. From a war of words the parties fell to blows, and the Governor having some artillery, the insurgents were soon put to flight, and Husbands made his escape to Pennsylvania. In this "battle of Alamance," as it has been called, the militia had nine men killed, and sixty-one wounded. The insurgents had twenty-one killed, but the number of their wounded was not known. The authority of the government being thus restored, twelve of the insurgents were convicted of treason, and six were executed.<sup>1</sup> The Regulators warmly resented the part which the lower counties had taken against them; and Governor Martin, who succeeded Tryon, so profited by that feeling, that those who in 1771 had been in arms against the government, were among its warmest supporters during the Revolution.

The other occurrence was the destruction of the revenue schooner Gaspee,<sup>2</sup> which, having greatly annoyed the people of Rhode Island, was purposely decoyed, by a vessel to which she gave chase, into shallow water, where she ran aground. She was then boarded by the

part in the first Pennsylvania insurrection, showing that he was as ready to resist the just requisitions of law as its abuses.

<sup>1</sup> Grahame, in his account of this insurrection of the Regulators, has fallen into blunders with which he is not often chargeable. The above account is taken from Jones's *Vindication of North Carolina*, II. Martin's *History*, and Wheeler's *Hist. Sketches*.

<sup>2</sup> June, 1772.

people of Providence and set on fire. After an ineffectual attempt by the government to detect and punish the offenders, an act of Parliament was passed for trying similar offences in England.

The Parliament, as well as the ministry, being determined to maintain the right of taxing the colonies, the tax on tea was retained. The repeal of the other duties took place about the same time that Captain Preston's men in the riot fired on the people of Boston.

Lord North, who had succeeded the Duke of Grafton as premier, defended the tax on tea, which was ninepence lower than that which the colonists, in common with every other British consumer, had hitherto paid. It was expected that they would thus be reconciled to the new duty.

Such, however, was not the result. The colonists were well aware that if the present low duty was submitted to, it would hereafter become a precedent for any degree of taxation, however onerous. The opposition to the claims of Great Britain therefore underwent no diminution; and committees of correspondence, on the recommendation of Virginia, were appointed in all the colonies to confer with each other on the best means of serving the common cause, and of keeping alive the spirit of resistance.

In Massachusetts this was effectually done by the ministry. In 1771 Governor Hutchinson refused his assent to a tax-bill, because the commissioners of the customs had been assessed as others, and both they and the Governor adhering to the ground they had first taken, no tax-bill was passed that year. The provision made by the government for the entire support of the Governor, so as to render him independent of the Legislature, afforded new ground of complaint and alarm.

Meanwhile, one of the expedients of the colonists for acting on the interests of Great Britain proved, after a partial success, impracticable. The non-importation agreements were found to press too heavily on the colonial merchants to be continued. Being violated or evaded in some of the cities, the others excused themselves for taking the same course, to prevent ruin; and at length no part of these acts of self-denial remained in force, except that regarding tea.

The consumption of this commodity had consequently been so much diminished, that the East India Company sustained great loss. They therefore proposed to the ministry to repeal the tax altogether, instead of merely reducing it, and in that event they would pay double the amount on its export. The proposal was rejected; but, to favor the Company, a drawback was allowed on its exportation. Large quantities were then shipped by the Company to the principal ports of the colonies; but it being apprehended by the colonists that if the importation were permitted, the commodity would find a sale, and thus the duty, which constituted a part of the price, would be collected, they determined it should not be landed. In most of the ports, accordingly, the ships which brought it were compelled to return with it.

In Massachusetts they went a step further. Many of the citizens of Boston finding that the consignees would not send back the tea, as they had done in New York and Philadelphia, after keeping watch on the wharves to prevent the landing of it, held a meeting at which it was decided that the tea should not be landed. Meanwhile, the vessels which brought it, unable to obtain clearances at the custom-house, could not leave the port. In this posture of affairs, several parties of men, some of them disguised as Indians, went on board the vessels, broke



open the chests of tea, and threw it into the water. This memorable occurrence took place in December, 1773, and it seemed to have been done with a full sense of its importance, and of its probable consequences.

The public excitement in this colony was the greater from the publication of certain letters written by the Governor (Hutchinson), and the Lieutenant-Governor (Oliver), to an under secretary in England, which spoke of the people of the colony in very disparaging terms, and strongly recommended the most coercive measures against them. Although these letters were confidential, Dr. Franklin, then the agent for Massachusetts, obtained possession of them, and sent them over to the Speaker of the Assembly during its session in 1773. The liveliest indignation was excited in the Assembly: in a petition and remonstrance to the king, after the strongest denunciation of those officers, their immediate removal was insisted on.

Dr. Franklin having presented the Massachusetts petition, the ministers decided that it should be fully discussed before the Privy Council, and the first meeting of that body was postponed to give Franklin an opportunity of appearing by counsel. At the second meeting no less than thirty-five members were present, and counsel both for Hutchinson and Franklin also attended. Wedderburn, then Solicitor-General, and subsequently Lord Loughborough, who appeared for Hutchinson, adroitly assailed Franklin for having invaded the rights of private correspondence,<sup>1</sup> so that it seemed as if it was Franklin and not Hutchinson who was upon trial. As Franklin could give no account of how he obtained possession of these original letters without violating his

<sup>1</sup> The letters, though addressed to persons in office, were private and confidential. — Ann. Reg. for 1774.

engagements to those from whom he received them, he was obliged to submit in silence to Wedderburn's harsh obloquy and injurious imputations. Thus unexplained, these imputations were received with undisguised favor by the Council. They seemed in the same degree to have had a dispiriting effect on Dunning, Franklin's counsel, who, usually so ready and able, made a feeble defence<sup>1</sup> for his client. The consequence was that Hutchinson and Oliver were acquitted of all blame; and the next day Dr. Franklin was dismissed from his office of postmaster-general in America.

The manner in which Dr. Franklin got possession of these letters is still involved in mystery. He himself stated that he received them from a member of Parliament, who had shown them to him to convince him that much of the bad feeling between England and her colonies was attributable to Americans. Franklin then obtained leave to send the letters to America, to be there communicated, under certain restrictions, to a few leading individuals, and then to be returned. But Dr. Hosack, in his Memoir of Dr. Hugh Williamson, states, on the authority of a gentleman "of great respectability," that Williamson (as he told Hosack's informant) being then in London, and hearing of these letters, had, by an act of mingled boldness and address, applied for them at a public office, and obtained them. He immediately delivered them to Dr. Franklin, and the next day left England for the continent. The story is improbable, but in the main may be true. Mr. Sparks, in his valuable edition of Franklin's works,<sup>2</sup> has collected all the testimony relating to this curious passage of Revolutionary history, and has

<sup>1</sup> Dunning's failure was ascribed to fatigue and indisposition. — Bancroft, Vol. VI.

<sup>2</sup> Sparks's Franklin, Vol. XV.

ingeniously attempted to reconcile the conflicting statements of Dr. Franklin and Dr. Williamson.

It is not easy to suppose that these letters were obtained without a breach of trust or a violation of moral duty in some quarter; but the propriety of Dr. Franklin's course in bringing those supposed calumnies to light presents a question of casuistry about which men are likely to differ. It is certain, however, that neither he nor his constituents ever seemed to doubt that his conduct in the affair was not merely justifiable, but was highly meritorious.

The resentment excited in England by this act of bold defiance may be inferred from the acts of Parliament to which it gave rise. By one, Boston ceased to be a port of entry until it should have indemnified the East India Company; by another, the charter of Massachusetts underwent important modifications, one of which prohibited any town meeting without the permission of the Governor; and by a third, offenders against the revenue laws, and rioters, might be sent to England for trial.

Indignation and sympathy were felt for those who were regarded as sufferers in a common cause by all the other colonies, who did not know how soon the case of Boston or Massachusetts might be their own. In Virginia, which being the most populous of the colonies, naturally took the lead, the members of the Legislature, having assembled after another dissolution, suggested through their committee of correspondence, a general Congress of deputies to consult on their united interests.<sup>1</sup>

<sup>1</sup> It happened here, as it commonly does in all great national emergencies, that the same measures of redress are suggested in different places, without any concert, so as to make the honor of originating them uncertain, or rather to give to several, instead of one, a claim to that honor. The calling of a general Congress was an instance of this kind.



This proposal was favorably received in all the colonies, and Massachusetts, having recommended that the Congress should meet at Philadelphia in September, appointed five members. All the other colonies except Georgia followed the example, and on the fourth of September, 1774, fifty-two deputies elected by the colonial Legislatures, or by self-created popular conventions, assembled in that city; and on the following day they organized themselves as a deliberative body in a building known as Carpenter's Hall, and which has ever since been held in great veneration.

As this Congress exercised the highest functions of government, and as it was succeeded by other bodies similarly constituted, and exercising similar authority to the present day, this period may be taken as the beginning of that revolution which converted thirteen dependent colonies into a confederacy of sovereign States.

But before we follow that confederacy through the difficulties it encountered and overcame, let us pause awhile to take a brief survey of the individual members which composed it.

Massachusetts, comprehending as it then did, the province of Maine, was the most northern of these colonies. Maine was separated from the rest of the colony by New Hampshire. Its whole area was about forty thousand miles. Its sea-coast was between three and four hundred miles. This colony, possessed of harbors, and in the neighborhood of seas abounding in fish, had taken the

It had been previously proposed at a town meeting in Boston, and at another in New York. It had been also suggested both at a public meeting in Rhode Island, and by the Connecticut Legislature. It was an expedient which would naturally suggest itself, when the Congress at New York, after the passage of the stamp act, was fresh in the recollections of all.

lead of all the colonies in its navigation and fisheries, a pre-eminence which to this day it retains. It had also made more advances in manufactures.

New Hampshire, which intervenes between Massachusetts proper and Maine, touches the Atlantic to an extent of only eighteen miles, where Portsmouth, its principal town, stands. It extends north one hundred and forty miles and west ninety miles, having an area of from ten to fifteen thousand miles. A part of the territory it claimed was contested by New York.

Rhode Island lies on the Atlantic to the south of Massachusetts. Its area is little more than twelve hundred square miles. Its line of sea-coast is forty miles.

Connecticut also lies south of Massachusetts, and is west of Rhode Island. Its sea-coast extends one hundred miles on the strait formed by Long Island Sound. Its area is four thousand six hundred square miles.

These four colonies constituted what is called New England. Being originally settled by Puritans, their descendants yet retained many of the qualities which characterized that sect. The observances of religion were here kept up in greater strictness than they probably had ever been in England, and at one time their religious zeal mounting up to wild fanaticism, led them to banish those who dissented from them in opinion, and to hang women for witchcraft. In most of them the Presbyterians were the most numerous sect, but in Rhode Island there were many Quakers.

To the west of New England lies New York, which is of a triangular form, and is but thirty miles wide on Long Island Sound, but has a coast on the southern shore of that Island, of one hundred and thirty miles. By its present limits, which were not then well defined, its area is forty-six thousand square miles.

Further south on the coast was New Jersey, which is a peninsula between the Delaware River and the Atlantic. It has a sea-coast from Sandy Hook to Cape May of one hundred and thirty miles. Its area is seven thousand five hundred square miles.

Pennsylvania lies west of the Delaware River, and on three of its sides it is almost a regular parallelogram. Its area is forty-seven thousand five hundred square miles.

Delaware is the northern part of the peninsula formed by the Chesapeake Bay on one side, and the Atlantic and Delaware Bay on the other. Its greatest length is on the Delaware Bay. It has a sea-coast, south from Cape Henlopen, of thirty-two miles. Its area is two thousand one hundred square miles.

Maryland lies on each side of the Chesapeake. Its eastern portion is part of the last-mentioned peninsula, and the western portion is between Pennsylvania and the Potomac River. It is of a very irregular form, and has an area, exclusive of the Chesapeake, of about eleven thousand square miles. Its line of sea-coast is thirty-five miles.

The five last-mentioned colonies were at once agricultural and commercial in their pursuits. They differed very much in religion. In New York they were German Lutheran, and of the Church of England. In Pennsylvania, Delaware and New Jersey there were many Quakers, and in Maryland many Catholics; but some of each sect were found in all. Being at once healthy and fertile, these colonies increased faster in numbers and wealth than any others.

Virginia, according to the territory within her charter limits, then comprehended what is now Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, more than equal



to all the other colonies. It has a line of coast on the Atlantic of one hundred and ten miles, which include the two Capes that form the entrance into the Chesapeake Bay. Its area, exclusive of the territories aforesaid, from which she was soon after separated, was about sixty-five thousand square miles. The predominant religious sects were then Episcopalians, Baptists, Methodists and Presbyterians. Tobacco, Indian corn and wheat were the principal articles of its agriculture.

North Carolina lies immediately south of Virginia, with a line of coast of two hundred and ninety-five miles. Its area, exclusive of Tennessee, is ninety thousand square miles. Its agriculture is the same as that of Virginia.

South Carolina is the next colony on the south. It has an area of thirty-one thousand square miles, and a line of coast of one hundred and ninety miles. Its principal exports were rice and indigo.

Georgia, the most southern of the thirteen colonies, had an area, including the present States of Alabama and Mississippi, then inhabited by Indian tribes, of sixty-one thousand square miles.

The population of these colonies was most dense near the coast, and became more scattered and thin as the settlements gradually receded to the west, so that the principal portion of the population occupied a zone of territory extending fourteen or fifteen hundred miles from Maine to Georgia, and little more than one hundred miles in width.

The amount of the entire colonial population at the meeting of the first Congress was uncertain. Estimates of the numbers in each colony were indeed rendered to Congress by their respective deputies, but these estimates were made on insufficient data, and naturally, in their disputes with the mother country, they were disposed

to magnify its strength, both at home and 'abroad. The consequence was that their numbers were considerably overrated. The first census affords us materials for making a close approximation to the truth on this point. According to that census the whole population was, on the first of August, 1790, three million nine hundred and twenty-nine thousand eight hundred and twenty-seven. If then we suppose the increase in the ten preceding years to have been thirty-three and one-third per cent. — which supposes a moderate increase from immigration — then the population on the first of August, 1780, was two million nine hundred and forty-seven thousand three hundred and seventy-one. If we further suppose that in the six preceding years the increase was at the rate of thirty per cent. in ten years — which supposes a diminished natural increase, and no gain from immigration — then the population on the first day of August, 1774, was, in round numbers, two million five hundred and ninety thousand. It then follows that in the ordinary estimates of the population, in the beginning of the Revolution, at three millions, their numbers were overrated nearly half a million.

In the distribution of the whole number among the several colonies, we are left more to conjecture. According to the apportionment I have ventured to make, their respective numbers in 1774 were as follows :

	Inhabitants.		Inhabitants.
Massachusetts.....	360,000	Delaware.....	40,000
New Hampshire.....	80,000	Maryland.....	220,000
Connecticut.....	200,000	Virginia.....	560,000
Rhode Island.....	50,000	North Carolina.....	260,000
New York.....	180,000	South Carolina.....	180,000
New Jersey.....	130,000	Georgia.....	30,000
Pennsylvania.....	300,000		<hr/> 2,590,000

In all these communities domestic slavery existed to a greater or less extent. Very soon after Virginia was settled, a Dutch ship brought thither a number of negro slaves, which were readily purchased by the English planters, and their labor being very profitable in the cultivation of tobacco, they soon greatly multiplied, and were subsequently diffused throughout the other colonies. But as their labor was most profitable in those which grew tobacco, rice, or indigo, they were very unequally distributed; and perhaps of the five hundred thousand slaves then in the colonies, nineteen-twentieths were found south of Pennsylvania.

This single circumstance had such an influence, that it divided the thirteen colonies into two distinct communities, which widely differed in manners, habits of life, and general character; while the members of each division had also many features of close resemblance.

In those colonies in which the slaves were most numerous, the inhabitants, having more leisure, were more given to social pleasures and amusements—to the sports of the turf, the cock-pit, the chase and the gaming table. They had a more delicate and sensitive self-respect, which sometimes degenerated into haughtiness, and sometimes produced that union of courtesy, frankness, and ease which is rarely seen in Europe, except in the higher ranks of life. The social habits of the Southern planter often made him profuse, and plunged him in debt to the English or Scotch merchant who sold his exported products, and furnished him with his foreign supplies. He was often improvident, and sometimes not punctual in his pecuniary engagements. With these moral defects incident to his condition as a slaveholder, he derived some virtues from the same source.

Besides his agreeable companionable qualities, he often



acquired habits of forbearance and self-restraint which are essential to the formation of virtuous character. The evil effect of slavery on the temper and disposition of the master has been exhibited in glowing colors by Mr. Jefferson;<sup>1</sup> but his view of it, however plausible, seems to be contradicted both by philosophy and experience.

As this proposition seems counter to the ordinary opinion on the subject, and its reasons are not obvious, some explanation seems to be required.

With the power which a master has over his slave, and much of which extends to his children, he is placed in a situation in which he may either yield to his passions or resist them; and as he does one or the other, will he be strengthened (by the natural effect of exercise and habit) either in self-indulgence or self-denial. If he yield to his impulses, he is likely to become self-willed, rash, violent, and perhaps cruel. If he resists, he so far lays a solid foundation for virtue of every species, and especially improves in patience, mildness and clemency. Some masters are thus made worse, and some better, by slavery. Does its good or its evil tendency predominate? It is not easy to give a satisfactory answer to this question. But if we look to the character of those Southern men who have acted a conspicuous part on the political theatre, and regard them as fair specimens of the class of slaveholders, we shall have reason to infer that the relation between master and slave more often proves a school of virtue than of vice. General Washington, Mr. Jefferson, Mr. Madison, Mr. Monroe, Judge Marshall, Mr. Lowndes, Mr. Calhoun, were all remarkable for their mildness, moderation and forbearance. It is thought that General Harrison, Mr. Tyler, Mr. Polk and General

<sup>1</sup> Notes on Virginia.

Taylor may be added to their number. If General Jackson, the only remaining Southern President, may seem to offer some contradiction to the rule, it must be remembered that, supposing him to have had an uncontrollable temper, he is not fairly an exception, inasmuch as his character was formed before he became a slaveholder.

However these colonies may have differed in their social character, yet in their political opinions and feelings, and in some other particulars, there was great similarity. There was, in the first place, an equality of condition as to fortune, or rather an approach to it, which is never seen in Europe, there being a very small proportion who were affluent, and scarcely any who were downright paupers.

There was here no class of nobles by birth — office alone constituting the distinction of rank. Hence a respect for the laws themselves, through those who administer them, which is rarely elsewhere seen. Military aid was rarely required to enforce the civil authority.

There was, in all the colonies, more domestic ease and more abundant aliment, than in other countries. The very poorest class scarcely ever failed to have animal food once a day, and not seldom twice. This class was thus exempt from what is not only a very general source of anxiety and discontent, but is also the prolific parent of vice and crime.

All were familiar with discussion and deliberation, either as speakers or hearers, at their political elections, or in their church government.

In a new country with a rapidly increasing population, the supply as well as the demand for capital was steadily

increasing, but the demand was always in advance of the supply. This is a never-failing incident of newly-settled countries. In the consequent scarcity of gold and silver, a substitute was sought in paper-money, which was introduced by the promissory notes issued by the colonial governments to eke out the means of a scanty treasury. But this was not sufficient, for by far the largest part of their sales were made on credit; and this credit was not given solely by the rich, as by the patricians to the plebeians in ancient Rome, but was, from necessity, given by all classes. The mechanic, and even day-laborer, had often to await the tardy payment of their earnings, no less than the shopkeeper and the farmer.

The pressing demands for labor quickened invention; and great ingenuity was shown in labor-saving machines and other mechanical contrivances, especially in the colonies in which there were few slaves.

Fortune, next to office, making the chief ground of distinction in society, it was here sought with a more intense and unremitted ardor. Hence resulted great enterprise in all money-making schemes, and not seldom a reckless, gambling spirit.

The country being in a state of progress, and all things undergoing mutation, men were here less attached to established usages, and more ready for innovation.

One consequence of the large proportion of the colonial population who were above the condition of indigence was, that the rudiments of instruction were very generally diffused, more particularly in New England; but even in the other colonies the proportion of those who could read and write was probably greater than in any other country.



There was in all the colonies a very great respect and veneration felt for the parent state, to which they still continued to apply the endearing term of "home." The history of England, her institutions, her poets, statesmen and philosophers, her sovereign and nobility, her vast metropolis, her unequalled commerce and manufactures, her enormous wealth, her victories by sea and land, were regarded by them with patriotic pride; and this sentiment was rather heightened than diminished by distance, from the fact that its objects were known to most of the colonists only through the medium of their imagination.

But a still stronger sentiment with them was the love of civil freedom. Of all the inheritances derived from England, its popular rights and liberties were most prized and cherished. They had brought this feeling with them, and there was much in their new condition to strengthen the sense of equality and the spirit of independence. The feeling then grew with their growth, and pervaded all the colonies from their first settlement to the period of which we speak — as may be seen in the assertions of their rights by their Legislatures; in their altercations with the representatives of the royal authority; and in their self-denying restrictions to resist their supposed wrongs.

Their attachment to their fatherland<sup>1</sup> thus brought

<sup>1</sup> Mr. Joseph Reed, subsequently President of the Council in Pennsylvania, thus writes to Lord Dartmouth, on the twenty-fifth of September, 1774:

"No king ever had more loyal subjects; or any country more affectionate colonists than the Americans *were*. I, who am but a young man; well remember when the former was always mentioned with a respect approaching to adoration, and to be an *Englishman* alone a sufficient recommendation for any office of friendship or civility. But I

into conflict with their stronger attachment to liberty, gradually grew weaker, until it was finally extinguished, and converted into resentment and hatred—the greater, perhaps, for the claims of consanguinity—and ended in open war.

The perils and difficulties they encountered in the struggle for their rights, as well as the wisdom, courage and constancy which they displayed in the contest, and which at length terminated in success, will be developed in the succeeding chapters.

confess, with the greatest concern, that those happy days seem passing swiftly away, and unless some plan of accommodation can be speedily formed, the affection of the colonists will be irrecoverably lost.”—Reed’s *Life of Jos. Reed*, Vol. I. p. 77.

## CHAPTER II.

### DECLARATION OF INDEPENDENCE.

1774—1776.

THE deputies to the Congress now assembled in Philadelphia had been carefully selected in the several colonies for their talents, their weight of character, and above all for their zeal in the cause of their injured country; and they undertook the high duties which devolved on them with a full sense of their own responsibility, not only to their immediate constituents, but to all British America. It seemed but too probable that their dearest rights were to be then permanently secured, or to be lost for ever.

There was some difference among the colonies as to their avowed purposes in appointing deputies.

In some, the object of the appointment was declared to be "to adopt such measures as were likely to produce a redress of grievances, and to restore peace and harmony between Great Britain and the colonies." Such were the appointments in Virginia, Massachusetts, Pennsylvania and New Hampshire.

A redress of grievances was the only assigned object of the appointment in Rhode Island, Delaware, North Carolina and South Carolina.

In Connecticut it was "to consult on proper measures for advancing the best good of the colonies."

In Maryland it was "to effect one general plan of conduct, operating on the commercial connection of the



colonies with the mother country, for the relief of Boston, and the preservation of American liberty."

In New York and New Jersey the deputies were appointed "to attend the Congress," without specifying the object.

The dispute between the colonies and the mother country concerning their respective rights, which had continued for ten years, was now evidently brought to a crisis. The ministry of England seemed determined to raise a revenue in America, and, if necessary, to enforce their claim, by the strong arm of power.

That this was the settled purpose of the ministers appeared from many circumstances. When they had proposed to allow the East India Company a drawback of nine pence a pound on tea, so as to leave a tax on that commodity of only three pence a pound, under the expectation that the colonists would be willing to pay the tax, when they could thereby get their tea cheaper than before, that Company, with the wonted sagacity of self-interest, foresaw that the colonies would not be deluded by this insidious policy, and would refuse to buy tea of the Company, or even to permit its importation; whereby the Company would lose one of its best markets. It therefore proposed to the minister to take a drawback of only six pence a pound, provided the duty of three pence in America was taken off. But this offer, which might have given comparative quiet to the colonies, and have put a considerable sum into the British treasury, was peremptorily rejected, for it would have left the question of taxation unsettled.

The Quebec bill also furnished evidence of the same purpose. By greatly extending the limits of that province, in which the Roman Catholic religion prevailed, and by making all the powers of government

entirely dependent upon the Crown, it was intended to lessen the means of resistance in the old colonies, by diminishing their territory, and by raising up a rival colony with which they could never cordially coalesce; to say nothing of the chance of gradually extending to other colonies more or less of the same arbitrary system of government which had been provided for Canada. The appointment, for the first time, of the commander-in-chief of the army to be the governor of a colony, and the changes in the criminal law, were all indicative of the same ministerial views and intentions.

Thus satisfied of the hostile purpose of those who then administered the government of Great Britain, as well as of the mighty power they possessed of carrying that purpose into effect, what was the wisest course for Congress to pursue? Should they temporize, and take the chances that delay might give, or at once put an end to that connection which was found to be no longer compatible with their liberty and safety?

But for the last alternative they scarcely had the power, even if they had the inclination. The people they represented were not yet prepared to cut the cords that had so long and so happily bound them to the fatherland. The severance was not yet wished even by themselves.

It has been alleged by some historians that the independence of the colonies was already the aim of their leading politicians; and it is certain that this charge had been frequently urged by the colonial governors and others in their communications to the ministry. But it appears by the positive testimony of those who were best informed on the subject,<sup>1</sup> that such was not the fact.

<sup>1</sup> See Life of Jay; Jefferson's Autobiographical Memoir; Franklin's Works.

It is true that the future independence of the colonies was occasionally spoken of, but only as a remote event altogether uncertain as to time, just as the future independence of Canada, or Australia, or British India is now regarded as a probable occurrence in some distant future.

Supposing their independence impracticable, it remained for Congress to endeavor to produce a change of purpose in the British government, as had been formerly effected in the case of the stamp act; and if their efforts should prove unavailing, and the ministry should persevere in their present scheme of coercion, then to devise the best means of resistance.

But for the success of either alternative, a cordial union of the colonies, as to their views and measures, was indispensable; and to such a union there were not a few obstacles. Their newly-formed confederacy was composed of some twelve or thirteen communities differing widely in character, pursuits, and circumstances, as we have seen, and they were not exempt from those local jealousies and prejudices that are so common a consequence of neighborhood. Nor were they agreed as to the extent of their own rights, or the precise character of the relation between them and Great Britain. The greater part of them recognized the distinction between duties imposed for the regulation of trade and for revenue, with which distinction they had been long familiar; and they would have been content to make a formal admission of the one, if Great Britain would make a formal renunciation of the other.

But this was not the case with all, and especially with the people of Massachusetts. They had been induced, by their commercial character, to examine the subject more thoroughly, and had become convinced that the



distinction would, in practice, prove unavailing. They saw no difference, for example, in its consequences to themselves, between the stamp tax and the duty on imported sugar; and the last, though it indubitably levied money on the colonists, to be paid into the British exchequer, might be regarded as a regulation of trade. The leading men of that province then decided to deny the right of the British Parliament to draw money from the colonies, in any way, without the consent of their respective Legislatures.

Some were even disposed to go a step further, and to maintain that the only connection between Great Britain and her colonies was that they were the subjects of a common sovereign, who had a negative on the laws enacted by their several Legislatures; and that the political relation between the mother country and her colonies was the same as that which existed between England and Scotland after the accession of James, and before the Union; or that which then existed between England and Hanover. Mr. Jefferson says that such was the theory adopted both by himself and Mr. Wythe.<sup>1</sup>

To countervail these sources of discord the colonies had only the same ardent attachment to civil freedom, and the same sense of common danger to their dearest rights. These, however, proved sufficient to overcome the principles of repulsion, and to fuse them into a mass which became at once homogeneous and firm.

Forty-five deputies from eleven colonies having assembled at Carpenters' Hall, in the city of Philadelphia, on the fifth of September, they unanimously appointed Peyton Randolph of Virginia their President. He was

<sup>1</sup> This broad doctrine is not, however, clearly asserted either in Mr. Jefferson's "Summary of the Rights of America," or in the instructions which he prepared for the first deputation to Congress sent by Virginia.

the Speaker of the House of Burgesses in that colony, and was further recommended for that office by dignity of appearance and deportment. Charles Thomson of Philadelphia, a man of talents and integrity, was appointed their Secretary.

One of the first questions presented to their consideration was the mode of voting in a confederation of communities so unequal in population; and though a disposition was at first manifested to have some regard to their respective numbers in the votes of the different colonies, yet that course being strongly objected to by the smaller colonies, and there being no existing materials for a just apportionment, it was decided that each colony should have one vote. But in adopting a rule so obviously unjust, they took the precaution to assign as a reason for it, that "Congress neither possessed nor was then able to procure proper materials for ascertaining the proportion of each colony." They also decided to deliberate with closed doors, and that all their proceedings should be secret, until a majority should direct them to be published.

It being important that the course taken by the colonies should stand fair in the eyes of mankind both at home and abroad, a committee was appointed to state the rights of the colonies, the several instances in which those rights had been violated, and the means most proper for obtaining redress; which committee consisted of two members from each colony.

Another committee of one member from each colony was appointed to report the several acts of Parliament which affected the trade or manufactures of the colonies.

On the fourteenth, two deputies attended from North Carolina, and in the course of the session ten others from different colonies attended, making the whole

number to whom the destinies of America were confided, fifty-six.<sup>1</sup>

While the committees were employed in discussing the weighty subjects assigned to them, Congress received certain resolutions from the County of Suffolk in Massachusetts, which set forth in spirited and glowing language the sufferings then endured by the people of that province; the further abuses of British power with which they were threatened; and the measures which prudence recommended to the people of that colony in self-defence. They concluded with professing entire submission to the Continental Congress then in session.

For a better understanding of these resolutions we must revert to the recent course of events in Massachusetts. From the time of General Gage's arrival<sup>2</sup> as Governor of the province, there were continual altercations between him and its Legislature (the General Court) until he dissolved it in June. In spite of his efforts to prevent them, the people of Boston entered into an agreement not to import or consume British goods; which agreement they called "a solemn league and covenant." In the mean time seven British regiments had arrived in Boston, and the neck which connects its peninsula with the main land was fortified by Gage. The military stores of the colony which were deposited at Cambridge, and the powder in other magazines, were also seized by him. It was immediately after these hostile indications that the people of Suffolk, the County which contains Boston, met and passed the resolutions mentioned.

<sup>1</sup> This comprehends Simon Boerum of New York, who having received his appointment from some three or four persons, without authority, has been omitted by some historians.

<sup>2</sup> In May, 1774.



These resolutions having been considered, Congress resolved, that they deeply felt for the sufferings of their countrymen in Massachusetts Bay, under the late unjust, cruel, and oppressive acts of the British Parliament; that they thoroughly approve the wisdom and fortitude with which the people have there opposed the wicked acts of the ministry; and they recommend a perseverance in the same firm and temperate conduct.

By another resolution they declare that contributions for the relief of the people of Boston ought to be continued as long as their occasions require them.

These resolutions, together with those from Suffolk, were ordered to be published, and they constituted the first paper issued by Congress. They would not only be very soothing to the people of Massachusetts,<sup>1</sup> but were likely to give efficiency to the very lively sympathy felt every where for the people of Boston.

As one of the means of redress on which Congress mainly relied was to influence public opinion in Great Britain by acting on the interests of her merchants and manufacturers, their next measure was a resolution requesting the merchants in the colonies to send to Great Britain no further orders for goods, and to suspend the execution of those already sent, until the sense of Congress on the means of redress was made public.

They, some days subsequently,<sup>2</sup> also resolved that after the first day of December there should be no im-

<sup>1</sup> John Adams, in his diary, thus refers to this proceeding of Congress, Vol. II. p. 380:

"This was one of the happiest days of my life. In Congress we had generous, noble sentiments, and manly eloquence. This day convinced me that America will support the Massachusetts, or perish with her."

<sup>2</sup> September twenty-seventh.

portation of any merchandize that had been exported from Great Britain or Ireland; and that no such merchandize imported after that day should be used or purchased. Both these resolutions passed unanimously.

On the twenty-eighth, while the rights of the colonies were under consideration by the "grand committee" of two members from each colony, an attempt was made to anticipate the decision of Congress on the most important of those rights by Joseph Galloway of Pennsylvania, who was, at the time of his appointment, Speaker of the Assembly in that province; who belonged to the moderate party — a numerous body there — and who refused to accept the office of deputy to Congress, until instructions were framed which aimed as much at conciliation as redress.<sup>1</sup>

He proposed a plan of accommodation and union between Great Britain and her North American colonies, by which a Legislature was to consist of a grand Council to be chosen by the several colonies, according to their wealth and numbers. The executive power was to be discharged by a President-General, who was to be appointed by the Crown, and to have a negative on all acts of the grand Council. The two together were to regulate all the general concerns of the colonies, civil, criminal, or commercial; but each colony was to regulate its own internal concerns.

But there was added a provision which must, appa-

<sup>1</sup> By these instructions, said to have been drawn by himself, the deputies were to consult together upon the present unhappy state of the colonies, and to form and adopt a plan for the purposes of obtaining a redress of American grievances, ascertaining American rights upon the most solid and constitutional principles, and for establishing that union and harmony between Great Britain and the colonies which is indispensably necessary to the welfare and happiness of both. — I. Journals of Congress, p. 6.

rently, have made the scheme either impracticable, or nugatory for the security of American rights. A concurrent power was given to the British Parliament to regulate the affairs of the colonies; and each Legislature had a negative on the acts of the other; except that, in war, the grants of money made by the colonial Legislature did not require the assent of Parliament.

This plan was supported by its mover in a plausible speech, in which he maintained, in the broadest terms, that the colonies were not bound by any act of Parliament whatever; and that all the laws made for the colonists were, on the principles of the English Constitution, violations of their rights.

The scheme gave rise to a long and spirited debate; and, obtaining the favor of some by the liberality of the principles on which it was founded, and of others, by its avowed purpose of conciliation, it was referred for further consideration; and was, according to the tradition of the day,<sup>1</sup> finally rejected by a single vote. It is not improbable, however, that Galloway's main object was to divert Congress from any ulterior measures, and to recommend himself to the British government, since, by his public avowal subsequently, he was opposed to the non-importation agreement, though he had actually signed it; and in less than two years from that time he deserted the cause of his country, and joined the royalists in New York.

This seems to have been a turning point in the

<sup>1</sup> There is no notice on the journals of Congress of Galloway's proposition, it being the practice of the Secretary, sanctioned no doubt by Congress itself, not to record measures proposed and rejected. Yet what a deliberative assembly rejects, and the degree of its unanimity in the rejection, are often important facts in its history. It was thought better to notice this part of its proceedings on the best evidence we possess; it is mentioned both by Galloway himself, and by John Adams.



deliberations of Congress. From that time they decided on offering, in the first instance, liberal terms of conciliation; and, if they failed, then on resistance, at all hazards; for, in all their subsequent proceedings, as to their course towards Great Britain, they exhibited unanimity, or an approach to it.

Their next measure for appealing to the interests of the mother country was to discontinue their exports as well as their imports. In this, however, there was more difficulty. In the instructions given by Virginia to her deputies, they were restrained from agreeing to a non-exportation to Great Britain, to take place earlier than August tenth, 1775. It must be recollected that tobacco, the chief article of export from Virginia, was one of those "enumerated" articles which could be sent no where but to Great Britain; and that it would be comparatively valueless if kept at home. The same consideration applied in a great measure to rice, which was also an "enumerated" article, and exportable only to the mother country.

To the proposed delay most of the other colonies were opposed, because they regarded a suspension of exports as yet more important than a suspension of imports. But both Maryland and North Carolina, which also exported tobacco, urged that they must pursue the same policy as Virginia, since, if they stopped exports, while Virginia permitted them, she would monopolize their trade as well as frustrate the general policy. The wishes of those three States ultimately prevailed. After a debate of two days, it was finally determined<sup>1</sup> that all exportation to Great Britain, Ireland, and the West

<sup>1</sup> September thirtieth.

Indies should cease after September tenth, 1775,<sup>1</sup> unless the grievances of America were previously redressed.

Having appointed a committee to prepare "a loyal address to the king," they unanimously instructed that committee, by way of removing the pretence that Parliamentary taxes were necessary for defraying the expenses of their government, to assure His Majesty that the colonies had made, or would make ample provision for defraying all the necessary expenses of supporting government, and the due administration of justice in the respective colonies; that the militia would suffice for their defence in peace; and, in case of war, the colonies would be ready to grant such supplies as might be necessary.

They further instructed the committee to assure His Majesty that, if the colonies were restored to their condition at the close of the late war, by abolishing the laws for raising a revenue in America—for extending the powers of courts of admiralty—for the trial of persons beyond sea for crimes committed in America—for affecting the colony of Massachusetts Bay, and for altering the government and extending the limits of Canada, the jealousies occasioned by those acts would be removed, and commerce be again restored.

A communication having been received from the committee of correspondence of Massachusetts, informing Congress that Governor Gage continued to fortify Boston and its environs, as well as to give other indications of his determination to reduce them to submission, and requesting their advice whether, under the circumstances,

<sup>1</sup> It appears from the above resolution that the deputies from Virginia did not venture to deviate from their instructions, as has been sometimes stated.

the inhabitants would best serve the common cause by quitting the town, or remaining in it,—whereupon a committee was appointed to write to General Gage and urge him to discontinue the fortifications round Boston, to restore a free communication between the town and the country, and to prevent the further injuries and insults by the troops under his command.

They also resolved that Congress approved the opposition of the inhabitants of Massachusetts Bay to the execution of the late acts of Parliament, and that, if their execution by force should be attempted, “all America ought to support them in their opposition.”

By other resolutions they expressed their opinion that the removal of the people of Boston into the country should be adopted only after great deliberation; but, in case it was found necessary, that all America ought to contribute to compensate them for the loss and injury sustained.

That Congress recommended them to submit to a suspension of the administration of justice, when it could not be procured in a legal and peaceable manner.

And lastly, that every one acting under any authority, derived from the Act of Parliament which changed the form of government of Massachusetts, ought to be held in detestation and abhorrence.

Having, in their letter to General Gage, given him assurance of the peaceable disposition of the inhabitants of Boston, Congress advised those inhabitants still to conduct themselves peaceably towards that officer, and the troops stationed in Boston, as far as was consistent with their immediate safety and the security of the town.

The reports made upon the rights and grievances of the colonies by the committees to whom they had been respectively referred, having been amalgamated after



they had been several days under discussion, on the fourteenth of October Congress adopted a preamble and ten resolutions setting forth the rights of the colonies. To these they subjoin a specification of the several acts of Parliament which they regard as violations of those rights, and the repeal of which they declare necessary to the restoration of harmony between Great Britain and the colonies.

The rights thus asserted were as follows :

1. The right to life, liberty, and property, which they have never ceded to any sovereign power whatever.

2. That their ancestors, when they emigrated from England, were entitled to the rights, liberties and immunities of natural-born subjects.

3. That by such emigration they neither surrendered nor forfeited any of those rights.

4. That the foundation of English liberty and of all government is a right in the people to participate in their legislative council ; and as the English colonists cannot be represented in the English Parliament, they are entitled to an exclusive power of legislation, in all cases of taxation and internal polity, subject only to the negative of their sovereigns — but from the necessity of the case and a regard to the mutual interests of both countries, they consent to the operation of such acts as are restricted to the regulation of their internal commerce, “excluding every idea of taxation, internal or external, for raising a revenue on the subjects in America without their consent.”

5. That the colonies are entitled to the benefit of the English common law, especially to the privilege of being tried by the peers of the vicinage.

6. That they are entitled to the benefit of such English statutes as were in force when the colonies were

planted, and which experience has shown to be suited to their circumstances.

7. That they are entitled to the immunities and privileges granted to them by royal charters, or secured by their several codes of provincial laws.

8. That they have a right peaceably to assemble, consider of their grievances, and petition the king; and that all prosecutions, &c., for the same are illegal.

9. That a standing army in any colony, without the consent of its legislature, is against law.

10. That it is necessary to good government, and essential by the English Constitution, that the constituent branches of the legislature be independent of each other; that therefore the exercise of legislative power by a council appointed, during pleasure, by the Crown, is unconstitutional, and destructive to the freedom of American legislation.

Of the preceding articles all were passed unanimously, except the fourth and the sixth. To the fourth the deputies from Massachusetts, and some of those from other colonies,<sup>1</sup> dissented, because they did not admit the right of Parliament to impose duties for the regulation of trade.

This subject was very warmly debated in committee, some denying the authority of Parliament in any case; others denying it only in taxation; and others again confining their denial to internal taxation, but admitting it when external, or for the regulation of trade.<sup>2</sup>

<sup>1</sup> Among them were Roger Sherman, of Connecticut, and Christopher Gadsden, of South Carolina, according to Mr. Adams. — II. Diary, p. 343, 379.

<sup>2</sup> Vol. II. Adams's Diary, 374.

It does not appear on what ground there was a difference of opinion as to the sixth article.<sup>1</sup>

Passing over previous infringements of their rights, they confine themselves, for the present, to the notice of those acts of the legislature and government of Great Britain which have violated the rights of the colonists since the peace of 1763.

These are acts of Parliament passed in the fourth, fifth, seventh and eighth of George the Third, for raising a revenue in America; which extend the power of the admiralty courts; deprive the American subject of the right of trial by jury; authorise the judge's certificate to indemnify the prosecutor; and require appropriate security from a claimant of goods seized.

Also the act for the better securing His Majesty's dock-yards, &c., which declares a new offence in America, and deprives the American subject of trial by a jury of the vicinage.

Also the acts for stopping the port and blocking up the harbor of Boston; and for altering the charter of Massachusetts; and the act for the better administration of justice;

Also the act for establishing the Roman Catholic religion in the province of Quebec, abolishing the equitable system of English laws, and erecting a tyranny there.

Also the act for quartering officers and soldiers in the colonies.

Also the keeping a standing army, in time of peace, in several of the colonies.

To these grievous measures they say they cannot

<sup>1</sup> Probably because it was not supported by the same self-evident and conclusive reasoning as the rest, or because it was pregnant with future controversy.



submit; but in the hope that their fellow-subjects in Great Britain will restore them to that state in which which both countries found happiness and prosperity, they will for the present enter into a non-importation, non-consumption, and non-exportation association; and prepare addresses to the people of Great Britain, to the inhabitants of British America, and to His Majesty.

The articles of association, fourteen in all, were adopted on the twentieth of October, and signed by the members. By these articles, they agreed that after the first of December they would import no British merchandize or tea, nor products of the British West Indies, nor wines from Madeira or the Western Islands, nor foreign indigo; nor purchase any tea imported after that day, when they would discontinue the slave trade.

From that date—October the twentieth—they would not purchase or use any tea on which a duty had been paid; and from the first of March they would not purchase or use any tea whatever.

After the tenth day of September, 1775, if the obnoxious acts of Parliament were not repealed, they would export no merchandize to Great Britain, Ireland, or the West Indies, except rice to Europe. Merchants are required to co-operate in the execution of this non-importation agreement by giving the requisite orders to their correspondents abroad, and the masters of their vessels.

They would endeavor to improve the breed of sheep, and to increase their number.

They would encourage frugality and industry; promote agriculture, arts and manufactures; abstain from idle amusements, as cock-fighting, horse-racing, and gaming, and from useless expense in mourning and at funerals.

They would not deal with any one who took advantage of the scarcity of goods to exact higher prices.

Special provision was made for such goods as might be imported between the first of December and the first of March following, which the owner might either reship or deliver up to a public committee.

Provision was also made for the appointment of committees to see to the execution of the association, and to publish the names of those who violated it.

They, in conclusion, agreed that they would have no dealings or intercourse with any colony or province in North America which should violate this association, which was to remain in force until the obnoxious acts of Parliament before mentioned should be repealed.

On the following day<sup>1</sup> the address to the people of Great Britain was adopted. Knowing that they would offend their pride by the denial of the supremacy of Parliament over the colonies, they aimed to soothe that pride by encomiums on their national virtues. They say, "When a nation, led to greatness by the hand of liberty, and possessed of all the glory that heroism, munificence and humanity can bestow, descends to the ungrateful task of forging chains for her friends and children, and instead of giving support to freedom, turns advocate for slavery and oppression, there is reason to suspect she has either ceased to be virtuous, or been extremely negligent in the appointment of her rulers."

Referring to the conflicts and wars in which their "great and glorious ancestors" had engaged to maintain their independence, they say that the colonists, descended from the same ancestors, must be expected to be animated with the same spirit.

<sup>1</sup> October twenty-first.

They urged that they are entitled to the same rights as their fellow-subjects in Britain, and that as the property of the latter cannot be taken without their consent, so neither ought that of the colonists.

Before the late war Great Britain was content with drawing from the colonies the wealth produced by their commerce, to which they submitted without complaint. They lay a stress on their loyal support of the British arms, which England had readily acknowledged and even reimbursed; and they ask whence this change in their treatment?

In proof of this charge they refer to the obnoxious acts of Parliament from the stamp act to the Boston port bill; to the arbitrary revocation of the Massachusetts charter; and to the threatening consequences of the Quebec act. They refer also to "dissolute, weak and wicked governors" set over them; and to needy and ignorant dependants advanced to the seats of justice.

They point out the dangerous consequences of those oppressive acts to the liberties of England, and say that after the colonists have been enslaved, many of them may be ready to assist in enslaving the people of Great Britain; that such a project may not seem visionary when it is recollected that the quit-rents to the Crown on this continent will, in half a century, make the king independent of Parliament.

They add, that if the British people will not interfere to arrest this course of injustice and oppression, the colonists must then tell them, they will not be hewers of wood and drawers of water for any ministry or nation in the world. All they ask for the restoration of harmony is, to be placed in the situation they were in at the close of the last war.

Knowing that the fate of Boston may become the fate



of all, they have resolved to live without trade rather than submit. In doing so, they regret the inconvenience that may result to many of their fellow-subjects. But they hope that the justice and magnanimity of the British nation will choose a Parliament that will restore to them their violated rights, and mutual harmony to the different parts of the British empire.

The committee who prepared this address were Mr. Lee of Virginia, Mr. Livingston of New Jersey, and Mr. Jay of New York.<sup>1</sup>

The same committee prepared the address to the inhabitants of the united colonies.<sup>2</sup>

In this paper they declare that their duty to their creator requires they should state the causes of their present opposition to the British government.

They proceed then to take an historical review of the several violations of their rights since the conclusion of the late war, which have been already mentioned; from all which they say it is impossible to doubt that a resolution had been formed by the British ministry "to extinguish the freedom of these colonies."

They then justify the moderation of the course they have pursued, first, because it best consisted with their former character for loyalty; secondly, because of the affection felt by the colonists for the people of Great Britain, and which they trust is reciprocated; and lastly, because they believe that the commercial mode of opposition, if faithfully executed, will prove efficacious.

The people of the colonies are then reminded that their salvation depends on themselves; and they are exhorted, by a regard to their honor and their dearest interests, to

<sup>1</sup> This paper was drawn by Mr. Jay of New York.

<sup>2</sup> This paper was drawn by Mr. Richard Henry Lee of Virginia.

bear their present trials with firmness; and, extending their "views to mournful events," to be "prepared for every contingency."

On the same day they passed a resolution that the seizing or attempting to seize any person to transport him beyond sea for trial, would justify, and ought to meet with resistance and reprisal.

The President being rendered unable to attend the Congress by indisposition,<sup>1</sup> Henry Middleton of South Carolina was appointed in his place.

A circular letter was then addressed by the Congress to the colonies of St. John's, Nova Scotia, Georgia, the East and West Indies, accompanied with an account of the measures they had adopted; in which they solicit those colonies to concur.

On the twenty-fifth, the address to the king, which had been previously recommitted, was adopted.

After a detail of their various grievances, legislative and ministerial, they say "to a sovereign who glories in the name of Briton," the bare recital of these acts must, we presume, justify the loyal subjects who fly to the foot of the throne, and implore his clemency for protection against them.

They insist that the present differences are in no way imputable to them. Far from promoting innovations, they have ever opposed them; "and can be charged with no offence, unless it be one to receive injuries and be sensible of them."

The sensibility they have manifested is the natural result of their being born in a land of freedom; and advertng to the Revolution, which elevated the House of Brunswick to the English throne, they are confident

<sup>1</sup> October twenty-second.

His Majesty rejoices that his title to the Crown is founded on the title of his people to liberty.

They advert to the designing and dangerous men by whom his authority has been abused; and add that "these sentiments are extorted from hearts that most willingly would bleed" in His Majesty's service.

In asking for peace, liberty, and safety, they wish no diminution of the prerogative, or solicit any new grant; appealing to that Being who thoroughly searches all hearts, they solemnly assert that they have been actuated by no other motive than a dread of impending destruction.

In language at once humble, earnest, and fervid they conclude with imploring the interposition of the royal authority for their relief.

On the same day they passed a vote of thanks to the advocates of civil and religious liberty who have defended the cause of America both in and out of Parliament.

On the following day, the last of that momentous session, they addressed a joint letter to the several agents of the colonies in London, requesting them to deliver their petition into the hands of the king, and then, through the press, to give it general diffusion.

They wish the vote of thanks to be communicated to those agents<sup>1</sup> they should deem deserving objects of it. They are informed that Congress will meet again in May, and they are requested to transmit to the Speakers of the several Assemblies such information of the conduct and designs of the ministry or Parliament as it may concern America to know.

The address to the people of Canada, which had also

<sup>1</sup> There were seven of these agents, and two of them, Dr. Franklin and Edmund Burke, acquired a celebrity which was reached by few of their contemporaries, and surpassed by none.



been recommitted, was then adopted. One of the objections which had been most frequently urged against the Quebec bill, both in England and America, was its establishment of the Catholic religion; but this delicate topic was carefully avoided by Congress in their address.

They say that when, by the fortune of war, Canada became a part of the British dominions, they expected that as courage and generosity are closely allied, their brave enemies would become hearty friends, and would enjoy all the rights conferred by the English Constitution; but that these expectations had been disappointed by the present flagitious ministers.

The first of these rights is that of choosing representatives, who make their laws, and who alone can take their property from them.

Another is the right of trial by jury.

Another is liberty of person — protected by the writ of *habeas corpus*.

A fourth right is that of holding lands by the tenure of easy rents.

The last right is freedom of the press.

These valuable rights, indispensable to freedom and happiness, have been taken from them. Nor are the French laws permanently secured to the people of Canada, as they are to remain in force only until they are altered by the Governor and Council.

They are few in numbers compared with the colonies addressing them, and it would be far better for them to have the rest of North America friends than their enemies. They say that difference of religion offers no obstacle to amity between them; of which the Swiss cantons afford a memorable proof.

The Canadians are then cautioned against those who, from interested motives, will oppose the object of this

address. They are not asked to commence hostilities, but to unite in a social compact; and, forming a provincial Congress, to send deputies to the Continental Congress to be held in May next.

They give an abstract of their principal measures, one of which was an unanimous resolution, that Congress considered the violation of the rights of Canadians as a violation of their own.

The committee who prepared this able address were Mr. Lee, Mr. Cushing of Massachusetts, and Mr. Dickinson, who was its draftsman.

Having previously appointed the tenth day of May for their next meeting, this memorable body terminated its session of fifty-two days.

Let us here pause a moment to do justice to the merits of these men. Never did a deliberative body better execute the important duties that devolved upon them. Their first object was to produce unanimity at home, as the best means of obtaining a redress of their grievances, and of defending themselves, should force be finally resorted to. To effect this, their resolutions in answer to those of Suffolk; their address to the people of the colonies; and indeed all the other papers they published, were calculated to produce entire conviction that they had been grossly injured; and that it was the settled purpose of the British government to degrade the colonies to a state of servile dependence.

They endeavored to strengthen themselves by inviting the co-operation of the other colonies, and especially of the people of Canada, who were the most numerous, and of whose ancient prejudices they were most apprehensive.

They then made a strong appeal both to the interests, and to the sense of justice of the British nation, by their

suspension of all commercial intercourse with them, and by the addresses to the king and the people of Great Britain. All this too was done with a force, an ability, and, at the same time, a calm dignity of manner which called forth the praises of the most distinguished men of their day,<sup>1</sup> and which has ever made the Congress of 1774, above all others, the theme of just pride to the American people.

Such were the acts of this august body of patriots; and if, on a nearer inspection, cavillers have seen that even here the love of notoriety, the ambition of originating measures, the vanity of authorship or of oratory were exhibited in their proceedings, these instances of human infirmity ought not to deduct from our pride and admiration—for they were but temporary, they extended only to a portion of the body,<sup>2</sup> and in no instance appeared to have had any influence on their measures. Where men have encountered danger and difficulty to do right, and have done it with singular sagacity and ability, we are not warranted in looking with microscopic and envious eyes on the subordinate personal feelings which accompanied without disturbing their acts. These acts, then, are the proper objects of our regard, and they must always place the men of the first Congress in the fore-

<sup>1</sup> Edmund Burke and Lord Chatham. — See Annual Register and Parl. Debates.

<sup>2</sup> On this subject we may cite a passage from Mr. Adams's Diary, which some may think quite as characteristic of the honest but fault-finding patriot as of those on whom he animadverts :

"Monday [Sept. twenty-fourth]. In Congress nibbling and quibbling as usual. There is no greater mortification than to sit with half a dozen wits, deliberating upon a petition, address, or memorial. These great wits, these subtle critics, these refined geniuses, these learned lawyers, these wise statesmen, are so fond of showing their parts and powers, as to make their consultations very tedious." — II. Diary, p. 401.



most rank, among the guardians of a people's rights, and the defenders of civil freedom.

The papers put forth by Congress, though they all failed of their intended effect abroad, were entirely successful at home. They united the great body of the American people in one main purpose, and procured from them a more willing and strict obedience to the mere recommendations of Congress, than laws armed with penalties can ever enforce. In this process they had the ready aid of most of the provincial legislatures.

In Massachusetts General Gage had issued writs for electing members of the legislature to meet at Salem on the first of October; but, seeing the general temper of the people, he had by proclamation countermanded those writs. The people, however, proceeded to make the election, and the members elected, having assembled at Salem, declared themselves a provincial Congress; a result which public sentiment had already indicated. They adjourned, first to Concord, and then to Cambridge, where they exercised all the functions of government.

Their first measures were to prepare for the defence of the province by providing military stores, and for enrolling twenty-two thousand militia—then called “minute men,” and all receivers of taxes were required to pay over the money collected by them to the treasurer appointed by the provincial Congress. The proclamation of General Gage, denouncing their proceedings, was utterly disregarded.

Let us now advert to the course of the British Legislature and ministry concerning America.

At the meeting of Parliament on the last of November, the king in his opening speech mentioned “the daring spirit of resistance and disobedience to the law,” which

prevailed in Massachusetts Bay, which had been countenanced and encouraged in other colonies, and his determination to support the supreme authority of Parliament over all his dominions. But notwithstanding this declaration there was an apparent irresolution<sup>1</sup> on the part of the ministers as to the course they meant to pursue toward America; and they were so far from asking an increase of military force, that a reduction of four thousand seamen was proposed by them; and some weeks elapsed before the papers received from America were communicated to Parliament.

At length William Pitt, now become Lord Chatham, who had for some time withdrawn himself from public affairs, appeared in the House of Lords, and moved an address to the king for recalling the troops from Boston. He supported it in his wonted style of lofty eloquence, and concluded in these words: "If the ministers thus persevere in *misadvising* and misleading the king, I will not say that they can alienate the affections of his subjects, but I will affirm that they will make his Crown *not worth his wearing*. I will not say that the king is betrayed, but I will pronounce that the kingdom *is undone*." His motion was rejected by sixty-eight to eighteen.

A petition was then presented in the House of Commons from Dr. Franklin and two other American agents, stating that the petition from the American Congress to the king which they had been authorised to present, had been referred by the king to the House, and they asked to be heard on the subject; but, after a warm debate, a large majority decided that to hear them would be to give countenance to an illegal assembly.

In February Lord Chatham brought forward a bill for

<sup>1</sup> Annual Register for 1775, page 44.

settling the troubles in America, and asserting the supreme legislative authority of Great Britain over the colonies. This supremacy he broadly asserted; but, as to taxes, he proposed that none should be levied in America, except with the consent of the provincial assemblies.

The bill legalized the Congress proposed to be held in May, both for recognising the supreme authority of Parliament over the colonies, and for making to the king a free grant of a certain and perpetual revenue, subject to the disposition of Parliament,<sup>1</sup> and applicable to the lessening of the national debt. It also restrained the powers of the admiralty courts within their ancient limits, and secured to the colonies their privileges and immunities.

This bill, which would have fallen far short of giving general satisfaction in America, was very warmly assailed by most of the friends of the ministry, and was supported by its mover with the vigor and eloquence of his early days; but, after a very diffuse and protracted debate, it was rejected by sixty-one votes to thirty-two.

The next day the minister, Lord North, disclosed his plan of procedure towards America, which was to send a greater force thither; to interdict the Newfoundland fishery to the other colonies of New England; and to restrict their foreign trade solely to Great Britain, Ireland, and the West Indies.

An address to the king was then moved in the House of Commons, which was a sort of manifesto of the principles by which the ministry had been, and would be governed in their course towards America, and which declared that a rebellion then existed in the province of Massachusetts. In the course of the debate on this

<sup>1</sup> Annual Register for 1775, page 59.



address some of the members treated resistance by the Americans with contempt, averring that "they were neither soldiers, nor ever could be made so; being naturally of a pusillanimous disposition, and utterly incapable of any sort of order or discipline;" and a general officer had the presumptuous folly to declare that, "at the head of five regiments of infantry, he would undertake to traverse the whole country, and drive the inhabitants from one end of the continent to the other." The address was carried by a large majority, as was the bill which interdicted the fisheries and all foreign trade to the New England colonies.

While these bills were under discussion, the minister excited no little surprise on both sides of the House, by offering a resolution which contained a conciliatory proposition not widely different from that of Lord Chatham's bill. It declared that, whenever the legislature of any province proposed to contribute its proportion to the common defence, such proportion to be raised by the provincial legislature and disposable by Parliament—and also engaged to provide for the support of the civil government and the administration of justice, if such proposal should be approved by the king in Parliament, it would not be proper to levy any tax or duty on such province, except for the regulation of commerce; the net produce of which last duty was to be carried to the account of the said province.

He maintained that this proposition was in conformity with the late address made by Parliament to the king. He said that it would be an infallible touchstone to try the sincerity of the Americans. If their professions were real, and the grounds of their opposition such as they assert, they must agree to this proposition; but if they were actuated by sinister motives, their refusal of

the terms now offered would expose those motives to the world.

The resolution was at first vehemently opposed by the friends of the administration; but it was shown by one of its supporters that the dispute was now narrowed down to the question of "revenue or no revenue;" and the minister himself admitted that he had not expected his proposition would be generally well received by the Americans, but that he intended by it to separate the grain from the chaff.<sup>1</sup> If it did no good in America, it would do good in England; as it united England, it would disunite America. Whatever province came first to make a dutiful offer would be kindly treated; and if but one province accepted the offer, the whole confederacy would be broken; and that union, which alone rendered them formidable, would be dissolved: from which consideration, as well as an unwillingness to afford a temporary triumph to the opposition, the resolution was carried by a vote of two hundred and seventy-four to eighty-eight.<sup>2</sup>

A bill was also passed for imposing the same restraints on the trade of New Jersey, Pennsylvania, Delaware, Maryland, Virginia and South Carolina, as had been imposed on that of New England.

At this session Edmund Burke brought forward his plan of conciliation, contained in thirteen resolutions, in which, leaving the question of the right of taxation undecided, he proposed that it should be exclusively exercised by the colonial legislatures, and that the Boston port bill, and other obnoxious acts, should be repealed. He supported his propositions in one of those masterly speeches<sup>3</sup>

<sup>1</sup> Annual Register for 1775, page 96.

<sup>2</sup> Ibid. page 98.

<sup>3</sup> In Prior's Life of Burke, page 172, is an analysis of this speech, made by Burke himself.

which, though little heeded by those to whom they were addressed, have been admired by the world as unrivalled exhibitions of philosophy, statesmanship, and eloquence. His plan of conciliation shared the fate of that of Lord Chatham, as did also one brought in by Mr. Hartley a few days after the rejection of Mr. Burke's, and which was a modification of Lord North's.<sup>1</sup> But what could argument or oratory avail with a king and Parliament bent on bringing a distant country to their feet, or with a people aiming to lighten their own burdens by shifting them off on defenceless colonies?

Meanwhile the course of events in America was hastening that result, to which the public measures in England evidently tended.

It was not to be expected that peace would long continue between those who were regarded as rebellious subjects on one side, and as lawless oppressors on the other, when the opposite parties were placed side by side within the narrow limits of Boston. Indeed, with the contempt of the colonists entertained by most Englishmen at that day, for their want of military knowledge, and even of personal courage, the ministry would have already resorted to measures of coercion, but for the fear of public opinion in England, especially in London, and from the desire they felt to put their adversaries in the wrong. They, moreover, as well as the English people, were now rendered more sensible than ever of the value of the colonial trade to the commerce and manufactures of England; and that the ruinous losses to the colonists consequent on a civil war would be also severely felt by themselves. The colonists, on their part, exasperated as they were by their sufferings and

<sup>1</sup> Annual Register for 1775, page 110.



their wrongs, besides wishing to secure a unanimity at home, and not to lessen the number of their friends in England, were not desirous of provoking hostilities which would expose them to power and resources so superior to their own. These circumstances were sufficient to delay a collision, which, however, they could not prevent.

A detachment having been sent in February by General Gage to take possession of some brass cannon, which the provincials had at Salem, was refused the use of a drawbridge over which they wished to pass; and when the officer commanding was about to overcome by force the resistance he encountered, he was diverted from his purpose by the interposition and remonstrances of a clergyman, who, at the same time, prevailed on his countrymen to let down the bridge, and thus put an end to the contest. But this open opposition to authority by the colonists was irritating to military pride, and the mutual ill-will of the soldiers and the Bostonians was obviously increased by this trifling collision.

General Gage having learned that there was a considerable deposit of provisions and military stores at Concord, where the provincial Congress sat, sent off in the night a detachment of eight or nine hundred men under Colonel Smith, to destroy them. But the regulars soon discovered, from the ringing of bells and the firing of guns, that the people had taken the alarm, and when they reached Lexington, six miles from Concord, before sunrise, they there found assembled the minutemen of the town (about a hundred), who were 'ordered to lay down their arms and disperse. But the order not being obeyed, the soldiers fired, killed eight men, and wounded several.

The detachment then marched to Concord, where they proceeded to destroy some gun-carriages, and to throw

several barrels of gunpowder, musket-balls, &c., into the river. A party of militia, seeing some fires in the town, were induced to approach it, and as they drew near a bridge they had lately left, the soldiers fired at them, and killed two men. The fire was returned, and a skirmish ensued, when the regulars retreated. Of these several men were killed and wounded, and a lieutenant and some others were taken prisoners. The people of the country came pouring in from all quarters, and an irregular skirmishing continued through the whole day. In the march back to Lexington the regulars were annoyed not only by those who pursued them, but by the fire from the houses and covered places along which they passed. They would probably have all been cut off but for a reinforcement of sixteen companies of infantry, a number of marines, and two pieces of cannon, which General Gage had taken the precaution to detach early in the morning, in support of the force under Colonel Smith.

The field-pieces kept the militia at a distance; but, as soon as the regulars resumed their march, the attack was renewed, and continued until, about sunset, they reached Charlestown, opposite Boston, where they were protected by the guns of a man-of-war. In the contests of the day the regulars lost, in killed, wounded, and prisoners, two hundred and seventy-three men; the provincials, about sixty. It is supposed that the number of regulars in this expedition was from eighteen hundred to two thousand.

The first blood was now spilt in this civil contest, but no one supposed it would be the last. The news of it flew over the land as fast as expresses could carry it; and filled every bosom with patriotic indignation, and a determination to support Massachusetts. The American people were also greatly encouraged by the fact that mere militia

had been able to stand the fire of regulars, and had even compelled them to retreat — a result that occasioned no less surprise to their boastful enemies than congratulation and triumph to themselves. All hopes from forbearance were now at an end, and warlike preparations were every where made with redoubled energy.

The Massachusetts Congress lost no time in sending an address to the people of Great Britain, in which they proved, by a mass of testimony not to be resisted, that hostilities commenced with the regulars, whose conduct they strongly censure. They declare that they will not submit to persecution and tyranny, and that they are determined to die or be free.

They then organised an army of thirteen thousand six hundred men; issued paper-bills for the money they required; and passed a resolution that General Gage had disqualified himself as Governor of the province, and that no further obedience was due to him. Boston was, at that time, surrounded by twenty thousand men, who had flocked thither from different parts of New England, after the affairs of Lexington and Concord, so as to cut off from the British all supplies of provisions from the country.

The Assembly of Connecticut immediately voted to raise six thousand men; and that of Rhode Island fifteen hundred men. In New Hampshire, as a provincial Congress was to meet in May, the force to be there raised was left to the decision of that Congress.

The people of New England, before the conflict at Lexington, believing a rupture with Great Britain inevitable, decided on offensive measures by taking possession of Crown Point and Ticonderoga, on Lake Champlain. An expedition against those forts was planned both by Massachusetts and Connecticut; but the latter carried



its purpose into execution by Colonels Ethan Allen<sup>1</sup> and Seth Warner, at the head of parties of Vermonters. By these captures upwards of two hundred pieces of artillery, a large quantity of powder, and other military stores, fell into the hands of the Americans.

Members to the Continental Congress were again appointed in all the colonies by their several legislative bodies or conventions.<sup>2</sup> The same twelve colonies as before were represented at their meeting in Philadelphia on the tenth of May, 1775, when they again unanimously chose Peyton Randolph their President, and Charles Thomson, Secretary.

During the six or seven months which had elapsed since the adjournment of the preceding Congress, the prospect of accommodation between Great Britain and the colonies had undergone material changes. Every attempt at conciliation in Parliament had been unhesitatingly rejected, and three-fourths of both Houses avowed their purpose of reducing the colonies to unconditional submission. The execution of these threats was indeed actually begun. Blood had already been spilt on both sides, and both were actively preparing for that encounter which now seemed inevitable. In every colony the disputes between its royal governor and the people were little short of open war; and these petty fires, gleaming from New Hampshire to Georgia, plainly betokened a general conflagration.

On the nineteenth of May, Randolph the President of

<sup>1</sup> The British officer in command, taken by surprise at the summons to surrender, asked by what authority the demand was made, when Allen, in the tone of the old covenanters, replied, "In that of the great Jehovah and of the Continental Congress."

<sup>2</sup> The convention of New York represented only the city of New York and eight counties, containing nine-tenths of the population of the colony.

Congress being obliged to return to Virginia, John Hancock, of Massachusetts, was unanimously chosen to succeed him. Thomas Jefferson took the place of Mr. Randolph, and there soon confirmed and augmented the reputation he brought with him as an able writer, an uncompromising defender of his country's rights, and an ardent votary of civil freedom.

For the first fifteen days of its session, Congress was employed partly in considering the various communications made to them, particularly from the provincial Congress of Massachusetts, which stated what they had done; and showed, by numerous depositions, that they had not commenced hostilities at Lexington and Concord, as had been falsely alleged; and partly in deliberating on the state of the country. But on the twenty-sixth of May they came to an unanimous resolution that, as hostilities had already been commenced by General Gage, and reinforcements to his army were soon expected, the colonies should be immediately put in a state of defence; yet with a view to the restoration of harmony between the two countries, they declared that an humble petition should be sent to His Majesty, and a negotiation opened for accommodating the unhappy disputes. At the same time the Convention of New York was urged to prepare vigorously for defence, as it was very uncertain whether the efforts made by Congress at accommodation would be successful.

They then addressed a letter "to the oppressed inhabitants of Canada," and again urged them to unite with the other colonies in defence of their common liberty — assuring them that the capture of the forts of Ticonderoga and Crown Point were measures dictated solely by the law of self-preservation, and proceeded from no hostile purposes or feelings towards Canada. In accordance

with this disclaimer, when they decided on applying to the New England colonies for troops to garrison their forts, they ordered an inventory to be taken of the cannon and stores there found, that they might be safely returned on the restoration of the former harmony between Great Britain and her colonies.

It would seem that these declarations were intended to put the British government off their guard, since a short time afterwards an invasion of Canada was planned, rather by way of liberating the inhabitants, than with a view to conquest—it being understood that many of them were discontented with the Quebec act, and were thought ready to unite with the other colonies. The invasion was further recommended by the consideration that the province was then feebly garrisoned; that it contained large deposits of military stores; and that the possession of Ticonderoga and Crown Point would afford great facilities to the invaders.

After adopting various measures of defence, such as collecting sulphur and saltpetre, fitting up powder-mills, and raising rifle companies, they decided on the most critical of all, the appointment of a commander-in-chief for the army that must soon be called into existence.

There was at first some difference of opinion as to the individual on whom this important office should be conferred. While no one stood so high in public estimation as George Washington of Virginia, a few thought that General Ward of Massachusetts, who commanded the troops then investing Boston, had a prior claim;<sup>1</sup> but by the active exertions of John Adams, those scruples were overcome, and Washington was unanimously appointed.

<sup>1</sup> Among these was Mr. Pendleton of Virginia, according to Mr. Adams, who also states that Mr. Hancock aspired to the honor of the chief command. — II. Adams's Diary.



The appointment proved to be as fortunate as it was popular. Washington alone, of all Americans, distrusted his competency; for no one of them so well knew the difficulties he should encounter, and no one had formed for himself so high a standard of excellence. His mode of accepting the appointment has, perhaps, no parallel in military annals. He begged that his declaration, that day made with the utmost sincerity, might be remembered — that he did not think himself equal to the command he was honored with. To this rare modesty he added the equally rare disinterestedness of declaring his purpose to derive no profit from his office; but, from the liberal pay that Congress had assigned to the commander-in-chief, to receive only his actual expenses.

Two major-generals were also appointed. The first was Artemas Ward of Massachusetts; and Charles Lee, who had been a lieutenant-colonel in the British service, and who had a high reputation for military talents, was the second. Horatio Gates, also an Englishman, was made adjutant-general, Philip Schuyler of New York, and Israel Putnam of Connecticut were subsequently also appointed major-generals. To these were added eight brigadier-generals, and the requisite officers of the staff. Bills of credit were then issued for two millions of dollars.

After rules and regulations for the government of the army were adopted, a declaration, in the name of "the United Colonies of North America," set forth the causes of their taking up arms.

In this paper, which had been twice recommitted, it was urged, among other grounds of complaint, that the people of Boston had entered into a treaty with General Gage, by the terms of which they, on the delivery of their arms to their own magistrates, should be at liberty to depart with their effects; and that they had surren-

dered their arms accordingly; but that the General had, in open violation of the agreement, detained most of the inhabitants, and compelled the few who were permitted to retire, to leave their effects behind. They declare that "their cause is just; their union is perfect; their resources are great; and that foreign assistance is undoubtedly attainable; that the arms they have been compelled by their enemies to assume, they will, in defiance of every hazard, employ for the preservation of their liberties, being, with one mind, resolved to die freemen rather than to live slaves. They at the same time disclaim all wish to separate from Great Britain.

The committee which wrote this address<sup>1</sup> also prepared one to the Lord Mayor, Aldermen and Corporation of the City of London, expressing the thanks of Congress for the interest they had taken in the cause of the colonies.

Another petition was addressed to the king, in the same tone of humility as that of the last year, and which, on that account, was unacceptable to most of the members; but they consented to receive it, from the great respect felt for the many virtues and past services of Mr. Dickinson, its draftsman.

If the tone of these addresses to the British monarch may now seem incompatible with the self-respect of the American people, it must be recollected that the prestige of royalty was then in undiminished strength, and that it was, moreover, the object of Congress to make friends in England, from whose aid they counted largely.

In their second address to the people of Great Britain, after stating their recent causes of complaint, they deny

<sup>1</sup> It was drawn by Mr. Dickinson of Pennsylvania, with the exception of one often quoted passage, which was drafted by Mr. Jefferson.

that they have aimed at independence; and they declare that they are willing to submit to "all the acts of navigation and trade passed before the year 1763," trusting that such of them as have imposed unnecessary or grievous restrictions will, at some happier period, be repealed or altered. They consider the plan of conciliation offered by the minister, to afford them no security. The English people are again emphatically warned that their own safety depends on the maintenance of colonial rights.

During these deliberations at Philadelphia, the rupture was widening in Massachusetts. About the last of May Generals Howe, Burgoyne, and Clinton arrived at Boston with a large number of marines and soldiers, who were followed by several regiments, so as to make the whole British force in that town not less than ten thousand men. A fortnight after their arrival, General Gage issued a proclamation, by which a pardon was offered to all who would lay down their arms, and return to their occupations, except Samuel Adams and John Hancock. Those who did not accept the offer, their aiders and abettors, were declared to be rebels and traitors. Martial law was proclaimed at the same time.

These measures being regarded as indicative of immediate action, the provincials thought it expedient to take further precautions against the incursions of the British into the country. With this view they decided on fortifying the peninsula on which the town of Charlestown stands, opposite to Boston. They accordingly, on the night of the seventeenth of June, sent a detachment of men to erect works on Bunker's Hill, which lies north of Charlestown. They conducted their operations with such secrecy and despatch, that a strong redoubt with



entrenchments was completed by daybreak.<sup>1</sup> As soon as these works were discovered by the British, they were concurrently attacked by the guns of the ships-of-war in the harbor, of floating batteries and of the works on Cop's Hill in Boston. The provincials, however, did not suffer themselves to be thus driven from their operations. It therefore became necessary to dislodge them; and this duty was assigned to Major-general Howe and Brigadier-general Pigot, with a body of troops which, being subsequently reinforced, amounted to three thousand men.

In the early part of the conflict, about three o'clock in the afternoon, Charlestown was set on fire by the assailants, under the pretext that the troops had been fired on from the houses; and the buildings being all of wood, the town was totally destroyed. The regulars then marched on the works, and, being allowed to approach very near unmolested, they received so destructive a fire as to be thrown into some disorder, and many of the officers were either killed or wounded. The regulars were rallied, but were again repulsed; and it was only by a third attack that the works were finally carried. The provincials retreated over the Charlestown neck to Cambridge.

In this action the British lost, in killed, wounded and missing, one thousand and fifty-four men, more than one-third the number engaged; and the Americans four hundred and fifty men.

Though the British were the victors in the contest, yet

<sup>1</sup> It seems that the works were erected on Breed's Hill, a neighboring eminence, as a preferable position; but the variance, unimportant in itself, was unheeded at the time, and Bunker's Hill thus gave its name to the battle which ensued. The error has been sanctioned by general usage, and by the noble monument that has since been erected on the spot.

the result had been, so different from their former arrogant anticipations as to excite less exultation at their success than mortification that it had not been greater. On the part of the Americans, those who had previously doubted the ability of their inexperienced countrymen to cope with disciplined veterans, now had their doubts completely removed; so that the British victory at Bunker's Hill had the ordinary consequences of a defeat.

The British, now in possession of Bunker's Hill, strengthened its fortifications; but they were soon as closely invested in the Charlestown peninsula as in that of Boston.

Among the killed of the Americans was Dr. Joseph Warren, whose eminent talents, and devotion to the cause of his country, had induced him to assume the office of a soldier, and had procured for him the rank of General. He had the honor of being the first and only native officer of that rank who fell in battle during the Revolution. His fame has been ever fondly cherished by his countrymen as one of the first martyrs to American independence.

Let us now revert to the proceedings of Congress. That body would have been greatly wanting in prudence if it had been regardless of the Indians, who, as auxiliaries in war, would be valuable to either party, and whom, it was understood, the British ministers would spare no pains to induce to take up arms against the colonies. Accordingly the Six Nations were formally and earnestly addressed<sup>1</sup> on such topics as were likely to appeal to their interests, their sense of justice, or their sympathy; and commissioners were appointed to negotiate with other Indian nations.

<sup>1</sup> I. Journals of Congress, page 161.

Measures were also taken for training and arming the militia, comprehending all the men in the colonies between sixteen and fifty years of age<sup>1</sup>—one-fourth of whom, in each colony, to be selected as minute-men<sup>2</sup>—with various recommendations to the colonial assemblies or conventions on the subject of national defence.

On the twentieth of July a letter was received from the convention of Georgia, informing Congress that that colony had acceded to the General Association, and had appointed delegates to Congress; thus making the number thirteen.

Some days later they adopted an address to the Assembly of Jamaica, which had sent a deputation to the Crown in behalf of the North American colonies. The islanders are thanked for their approbation of the course pursued by those colonies, and for their friendly mediation. Congress excused themselves for including Jamaica in their non-exportation agreement, which they considered as indispensable to its efficacy.

On the twenty-fifth of July a further issue of bills to the amount of one million of dollars was ordered. A post-office for all the colonies was organized, and Benjamin Franklin was unanimously appointed Postmaster-general.

On the twenty-seventh a hospital was established for the army, and placed under regulations.

On the twenty-eighth an address to the people of Ireland was adopted by Congress.

After a detailed exhibition of their wrongs, they justify themselves for suspending trade with Ireland as well as Great Britain. The address contains this remarkable

<sup>1</sup> I. Journals of Congress, page 170.

<sup>2</sup> So called, because they were to hold themselves ready for military duty at a minute's warning.



prediction: "We already anticipate the golden period when liberty, with all the gentle arts of peace and humanity, shall establish her mild dominion in this western world, and erect eternal monuments to the memory of those virtuous patriots and martyrs who shall have fought, and bled, and suffered in her cause." They express lively gratitude for the friendly disposition the Irish people have always manifested; and they touch on every topic likely to cherish the same feeling.

The conciliatory propositions, as they were called by Lord North, having been referred to the consideration of Congress by the Assemblies of New Jersey, Pennsylvania and Virginia, the same were considered on the thirty-first of July; were peremptorily rejected; and were pronounced both unsatisfactory and insidious. Congress insisted that the monopoly of their trade was all that Great Britain ought to require, and that a further direct contribution would impose on them a double burden. That the British Parliament had no right to interfere with the provision which the colonies choose to make for the support of civil government, or the administration of justice; and that, if the right of laying taxes was expressly renounced, instead of being only suspended, it would be insufficient unless it were accompanied with the repeal of other obnoxious acts of Parliament. The minister is reminded of his own declaration that "he would never treat with America till he had brought her to his feet," and that his subsequent conduct proves that nothing but their own exertions "can defeat the ministerial sentence of death or abject submission.

Congress adjourned from the first of August to the fifth of September. On that day there was a further adjournment to the thirteenth of September, when they met, and three delegates from Georgia attended.

On the thirtieth of September a committee<sup>1</sup> was appointed to proceed to Cambridge in Massachusetts, the head-quarters of the army, where General Washington had been since the beginning of July, to confer with him, the Governors of Connecticut and Rhode Island, the Council of Massachusetts and President of the New Hampshire Convention, on the most effectual method of continuing, supporting, and regulating a continental army; and full instructions were prepared for the committee.

In November Congress, having considered petitions from the Island of Bermuda representing the distress to which they were exposed by the non-exportation agreement, decided in Committee of the Whole, that, as the inhabitants appeared friendly to the cause of America, they ought to be supplied with such produce as was necessary for their subsistence yearly — which amount is specified in exchange for salt, arms, ammunition, salt-petre, &c. — and which was to be distributed among the middle and southern colonies — and that they should be supplied with other necessities whenever the quantity required was ascertained.<sup>2</sup>

On a representation from General Washington, that vessels regularly cleared out at the custom-houses had been seized, while on their voyages, by the British ships-of-war, Congress decided on reprisals at sea against all public ships and transports; and they determined the several shares of the captors of such vessels. A day or two subsequently they adopted rules and regulations for the navy of the united colonies.

Amid their multifarious duties of superintending all military operations, making disbursement of money, and

<sup>1</sup> The committee consisted of Messrs. Lynch, Franklin and Harrison. — I. Journals of Congress.

<sup>2</sup> I. Journals of Congress, page 280.

corresponding with the new functionaries of all the colonies, they found time to notice a royal proclamation issued by the British government in August, which excited their sensibility by its charging them with being rebels, and with disregarding their allegiance. They, therefore, after vindicating their course, formally declared that any punishments inflicted by their enemies for adhering to the cause of the colonies should be retaliated on those who are in their power.

On the thirteenth of December thirteen ships-of-war were ordered to be fitted out—five of thirty-two guns, five of twenty-eight guns, and three of twenty-four guns.

The common danger which threatened the liberties of America did not prevent a bitter contest on the frontiers of Pennsylvania between inhabitants of that colony and of Connecticut, who set up conflicting claims to lands in the vicinity under their several charters. The dispute had proceeded so far as to cause bloodshed, and it having been brought to the notice of Congress by the deputies from those colonies, Congress earnestly recommended to the parties to suspend their controversy until the present difficulties with Great Britain were settled, when they could be fairly litigated. They further recommended that the property of which persons had been dispossessed by either party should be restored to the original holders.

They also resolved that if General Washington and his council of war should think that a successful attack could be made on the troops in Boston, he might make it in any manner he thought expedient, though the town and the property in it should be destroyed.

Let us now revert to the progress of the dispute in the separate provinces.

As Massachusetts had been, from the occurrences



already mentioned, first brought into open collision with Great Britain, and had most experienced the resentment of her ministers, the purpose of separation seems to have been first regarded as probable in the New England provinces. The sympathies of their people were strongly excited by the attack of the regulars at Lexington; and men taking up arms, hastened to the aid of Boston from all the adjoining provinces.

The first open act of hostility in New Hampshire was in December, 1774, after intelligence was received that the exportation of gunpowder and military stores from England to the colonies was prohibited; and that troops were daily expected from Boston to take possession of Fort William and Mary, at the entrance of Portsmouth harbor. A party of the colonists secretly possessed themselves of the fort, and carried off one hundred barrels of powder. The next day fifteen of the lightest cannon, and all the small arms and ammunition were removed. Major John Sullivan and Captain John Langdon were the leaders in this affair.<sup>1</sup> They both were conspicuous in the subsequent history of the Revolution.

After Lord North's conciliatory propositions arrived, Governor Wentworth summoned the Legislature to act on them. The Assembly asked time for consideration. Some collision having then taken place between that body and the Governor concerning three expelled members, and the people exhibiting signs of violence, he adjourned the Assembly, and retired to the fort; after which his house was attacked and pillaged. From the fort he again adjourned the Assembly to the twenty-eighth of September, and then to April, 1776, which was his last act. He left New Hampshire for Boston in August, 1775.

<sup>1</sup> II. Belknap's History of the Revolution in New Hampshire, p. 376.

In Connecticut and Rhode Island, the Governors being chosen by the people under their old charters from Charles the Second, there was no collision between them and the people of those colonies.

In the middle colonies the unwillingness to separate from Great Britain was greater than in the colonies either to the north or south. One reason probably was that in this division were the towns of New York and Philadelphia, which greatly profited by their trade to England, and which contained a larger proportion of English and Scotch merchants, who, with few exceptions, were attached to the royal cause.

Governor Tryon, of New York, took refuge on board a man-of-war in September or October, 1775.

In Virginia, the Governor, Lord Dunmore, having withdrawn the gunpowder from the magazine belonging to the colony, a great ferment was thereby excited, and Patrick Henry, at the head of some volunteers, marched towards Williamsburg, and compelled the king's receiver to give bills of exchange to the value of the powder removed.

The popular excitement in Williamsburg induced Dunmore to betake himself to the Fowey man-of-war in York river. On his refusal to return, at the instance of the House of Burgesses, that body proceeded to act as an independent Legislature.

After Dunmore retreated to the man-of-war, and was joined by such of the inhabitants of Virginia as had taken sides with Great Britain, he endeavored to exercise his remnant of power in annoying those whom he could no longer govern. By offering freedom to the slaves, he induced many to run away from their masters and repair to his standard. He furnished them with arms, and with this motley force, aided by the ships at his command, he

carried on a predatory war against the country lying on the Chesapeake Bay and the great rivers. He attempted to get possession of the town of Hampton, but the inhabitants, being reinforced from Williamsburg, repulsed him.

He then proclaimed martial law, and declared all who did not repair to his standard traitors. A body of troops, under Colonel Woodford, was despatched to oppose him; and they had an engagement at the Great Bridge on Elizabeth river. A company of British grenadiers, attempting to storm a breastwork, were repulsed, and every man was killed or wounded. Dunmore then thought it prudent to evacuate Norfolk, and to betake himself to his ships. The American soldiers having provoked the British ships in the harbor of Norfolk by firing at them, they in return, under the cover of a heavy cannonade from their ships, landed a force, and set fire to the houses near the river from which they had been annoyed. The fire extending, about three-fourths of the town were thus consumed; and the remainder was destroyed by American troops to prevent it from affording a shelter, or becoming a convenient port to the enemy. This was by far the largest and most commercial town in Virginia. Dunmore still continued his ravages, until wearied with efforts as unprofitable as inglorious, he sent off his colored adherents to Florida.

Governor Martin, of North Carolina, to defend himself from the rising spirit of the people of that colony, first fortified his house at Newbern; then fled to the fort at the mouth of Cape Fear River, and lastly to a man-of-war. He left his government in July, 1775.

Lord William Campbell, the Governor of South Carolina, lost the popular favor he had once possessed by tampering with the Cherokee Indians, and by his intrigues



with disaffected colonists. He also took refuge in a ship-of-war.

Sir James Wright, the Governor of Georgia, was made a prisoner in his own house in January, 1776, but subsequently effected his escape to a ship in Savannah River.

In New Jersey and Pennsylvania a majority of the people were at first not only opposed to independence, but also opposed to the leading measures of Congress. Yet in each province a local legislature was established, which finally superseded the royal authority. In Pennsylvania the people, in 1775, elected members to a Convention, which was at first opposed by the Legislature, and for a time both bodies continued to meet, until at last the Legislature could not obtain a quorum. Early in 1776, William Temple, the Governor of New Jersey, who was the son of Dr. Franklin, was made a prisoner in his own house by the Provincial Congress. He was subsequently released, was again imprisoned, and sent to Connecticut.

Thus in the beginning of 1776 all the representatives of royalty in those colonies had abdicated their governments, and ceased to exercise any authority, except on an insignificant number of adherents.

How were these proceedings of Congress received in England? Parliament met on the twenty-sixth of October, 1775. The king stated to the two Houses that he had called them together on account of the present state of things in America; that the people there had been, by gross misrepresentations, deceived into open revolt and rebellion, raised troops, and exercised all the powers of government,<sup>1</sup> that they had sought to amuse by ex-

<sup>1</sup> Annual Register for 1775, page 269.

pressions of attachment to the parent state, and of loyalty — but that their purpose was to establish an independent empire. It was necessary to put a speedy end to these disorders by decisive exertions. He had augmented his forces by sea and land, and had received offers of foreign assistance. He should authorise persons to give pardons and indemnities, and receive the submission of any province disposed to return to its allegiance.

The minister asked for and obtained a grant of twenty-eight thousand seamen and fifty-five thousand land forces; twenty-five thousand of whom were to be employed in America.

A large majority were disposed to support the course taken by the ministry on various motions made by the majority, after warm debates, in which all the facts asserted in the speech were denied, and its policy resisted. The majority was one hundred and seventy-six to seventy-two. In the Lords, seventy-six to thirty-three.

Members of both Houses strenuously but unavailingly denounced the employment of foreign troops.

Mr. Penn, Governor of Pennsylvania, having presented the petition from Congress to the king, he was, on the motion of the Duke of Richmond, in the opposition, examined in the House of Lords. He personally knew most of the members of Congress, and he positively asserted that they had no designs of independency; that the members were men of character, and had conveyed the sense of their constituents; that the war was merely defensive; that they would submit to the regulations of their trade, but were generally opposed to the authority of Parliament in taxa-

tion.<sup>1</sup> None of the ministers put any question to the witness.

In the course of the debate, the ministers, by way of obtaining the support of the country gentlemen with whom the plan of drawing a revenue from America was popular, declared that the purpose of taxing America was not abandoned, though it might for a time not be executed.<sup>2</sup>

On the sixteenth of November, Edmund Burke again offered conciliatory propositions. His plan was by concession, and it was modelled after an act passed in the thirty-fifth of Edward the First. In a speech of three hours he exhibited great knowledge of American affairs; and he considered in succession the different plans of putting an end to the dispute with the colonies. These were—first, simple war; second, a mixture of war and treaty; third, peace grounded on concession: and he maintained that the last alone would be efficient; and taking the statute of Edward, he alleged, as his guide, *he would be silent about the right*, and only forbear to exercise the power.

The ministers contended that while the bill conceded too much for England, it did not concede enough to satisfy the Americans—as they showed by reference to their public documents. It was rejected by two hundred and ten to one hundred and five, which was the largest minority yet obtained by the opposition.

The ministers then introduced a bill for interdicting all trade and intercourse with the thirteen united colonies—all property of Americans captured at sea to be lawful prize.<sup>3</sup> This bill repealed the Boston port bill, as well as the fishery and restraining acts, as inconsis-

<sup>1</sup> Annual Register for 1776, p. 95.    <sup>2</sup> Ibid. p. 100.    <sup>3</sup> November 20th.



tent with the policy now adopted, and it enabled the Crown to appoint Commissioners who were authorised, on inquiry, to except the whole or part of a colony from the restrictions of the present bill. Though vehemently attacked by the Opposition, the bill was passed by one hundred and twelve to sixteen.

These large majorities in support of measures which the Americans believed to be as illegal as oppressive, were well calculated to remove all doubt, if any had existed, that their rights would be little regarded when they came in conflict with the interests of England.

Conciliatory propositions were also offered by Mr. Hartley,<sup>1</sup> not materially different from those proposed by him at the preceding session; and after a sharp debate, they were rejected by the accustomed majority.

These ministerial measures encountered the same opposition in the House of Lords, and obtained the same success as in the House of Commons.

It appeared during the session that treaties had been made with the Landgrave of Hesse Cassel, and other German princes, for the hiring of seventeen thousand troops for the American service; which measure had been warmly assailed by the Opposition, and defended by the ministers on the ground of the impracticability of raising the requisite levies in the British kingdoms; and that these foreign troops, moreover, had the advantage of being disciplined and experienced.

The Opposition, led by men of great talents and eloquence, fought every inch of ground, and varied their mode of attack against the policy, the justice, the constitutionality of their measures, and sometimes compelled the ministers to change their grounds of defence;

<sup>1</sup> December 7th.

but whenever the question came to a vote, it appeared plainly that from two-thirds to three-fourths of the members were for sustaining the claims they had asserted; and that there was no chance of a peaceable adjustment of the present controversy but by a submission on the part of the colonies. On the twenty-third of May, the session terminated.

In March, Congress received information of the failure of the invasion of Canada under General Montgomery.

As early as June preceding, the expedition had received the sanction of Congress, provided General Schuyler should deem it expedient. It was accordingly, with his approval, determined to invade Canada with a force of three thousand men from New England and New York, under the command of Major-general Schuyler and Brigadiers Wooster and Montgomery; and batteaux were ordered to be built at Ticonderoga and Crown Point for the transportation of the troops on Lake Champlain.

When General Schuyler arrived at Saratoga, he found that none of the preparations ordered had been made, and that the troops were in a state of utter disorganization. It then became necessary for him to return to Albany to have a conference with Indians whose friendship was doubted; and the command of the expedition, which the impatience of their friends in Canada made them prematurely undertake, devolved on General Montgomery, an officer of high reputation. He was ordered to wait for reinforcements at Isle aux Noix, where he was found by General Schuyler, who, however, was, from indisposition, soon rendered incapable of active duty.

Under various difficulties, not the least of which were a spirit of insubordination in the troops, and the igno-

rance and inexperience of the officers, Montgomery defeated Carleton, and finally forced St. Johns to capitulate, and afterwards Montreal.

He then advanced to Quebec, but with a force greatly reduced by the troops left to garrison Chamblée, St. Johns, and Montreal, and by the fact that many, profiting by the short term of their enlistments, returned home. He thus had with him but three hundred men to accomplish the capture of Quebec.

General Washington had prudently planned another expedition by way of co-operation, which was to enter Canada through Maine and the St. Lawrence, about ninety miles below Montreal. This enterprise was confided to Benedict Arnold, who had displayed great energy and spirit in the capture of Ticonderoga and Crown Point. About one thousand men were placed under his command; but, delayed by the want of organization in the army, it was the middle of September before he began his march. The difficulties he then encountered in forcing his way through a wilderness abounding both with mountains and morasses, was so great, that one-third of his detachment left him and returned home. He, however, persevered, and after a march of thirty-two days through this dreary region, without seeing any sign of human habitation, impeded at every step by thick woods, by deep morasses, or steep mountains, it was the third of November before he reached the Chaudiere, a river emptying into the St. Lawrence. On the ninth of November, he arrived at Quebec. The town had an insignificant garrison, and the inhabitants were so utterly surprised, that could Arnold have at once crossed the St. Lawrence, the town would have immediately surrendered. A high wind, however, rendered the passage across the river impracticable. In



the interval reinforcements had arrived, and the inhabitants recovered from their first consternation.

Arnold finally crossed with most of his force, and obtaining possession of the Heights of Abraham, there formed his men, and proposed to march at once on Quebec; but this purpose being earnestly opposed by his officers, was abandoned. He then had under him but seven hundred men, many of whose arms had become unfit for service.

Learning that the British officer commanding, Colonel McLean, intended to make a sortie, Arnold thought it prudent to retire to *Point aux Trembles*, twenty miles above Quebec, and there await the arrival of General Montgomery.

These two leaders formed a junction early in December, and marched immediately to Quebec, where General Carleton had recently arrived, and had been actively engaged in preparing for defence. He there had under him a garrison of fifteen hundred men, including militia and seamen. Montgomery's whole force was less than one thousand men. He, however, decided, first on laying siege to the town, and, subsequently, on attempting to take it by assault. He divided his little force into four divisions, two of which, by feints, were to divert the attention of the enemy, and two under himself and Arnold to make real attacks on opposite quarters of the town. Between four and five o'clock in the morning, in a snow-storm, on the thirty-first of December, the signal was given, and when they had every prospect of success, a discharge of a single gun from one of the batteries proved fatal to Montgomery and two of his captains. Thus discouraged, the assailants made a precipitate retreat, and left the force under Arnold to the undivided resistance of the garrison. While he was advancing at

the head of his men, he too was wounded in the leg, and was carried off the field. Morgan, the next in command, pressed on and succeeded in taking a battery and capturing most of its men. But the next day he found that his force was inadequate to effect the conquest of the place, or even to his own defence, especially as there were few of his men disposed to undertake the bold and almost desperate attacks he still was intent on making. He was thus reluctantly compelled to attempt a retreat, which, however, he was unable to effect, and he, with his division, finally surrendered themselves prisoners of war. The British state their loss at only eighteen killed and wounded. The loss of the Americans was four hundred men.

Arnold, on whom the command now devolved, still continued the siege, though he had under him only seven hundred men; and General Carleton did not think it prudent, with such troops as he had, to molest him.

After the death of General Montgomery, Congress appointed Major-general Lee to take command of the forces in Canada; but before he could engage in any active operations, his services were more imperiously required in another quarter. He was transferred to the Southern department.

General Thomas was subsequently appointed to take the command of the army in Canada. Seeing no prospect of a successful attack of Quebec, especially as strong reinforcements might soon be expected from England, he concluded to retreat, and the same day they heard of the arrival of a British fleet in the harbor. This retreat was made with such precipitation, that most of the sick, and all the military stores, remained in possession of the enemy. At the first post at which Thomas halted, he was attacked by the small-pox, which proved fatal.

A surprise of General Frazer was attempted by General Thomas, at *Trois Rivières*, but it was repulsed, with the loss of about thirty killed, and two hundred prisoners, among whom were General Thomas and Colonel Irwin.

These discouragements, together with the large number in the hospitals, afflicted with the small-pox and other diseases, and the total insubordination of those who were fit for duty, while the British force, already superior to theirs, was about to receive new accessions, compelled General Sullivan, who succeeded Thomas, to abandon all thought of further offensive operations; and the whole province was evacuated with as much rapidity as it had been invaded.

The death of General Montgomery was regretted throughout all America. Congress directed a funeral oration to be prepared in honor of him and his fellow-soldiers who had fallen in the assault of Quebec, and a monument to be erected to the General.

While the American arms were thus unsuccessful in Canada, those of Great Britain experienced a similar fortune in the South.

After the British ministry decided on reducing the refractory colonies to submission, their plan of operation was to send an adequate force against each of three great divisions—that is, New England, the Middle, and the Southern colonies. The last, being the weakest, were the first attempted.

In the western counties of North Carolina the Regulators, who had first taken up arms against the authorities of the regal government, had now become loyalists. To these were joined a large body of Scotch Highlanders, who had recently immigrated to North Carolina; and Governor Martin hoped, by their aid and influence, to



prevent the defection of that province. To co-operate with these forces, he appointed M'Donald, one of the Highlanders, their general. Martin further looked to the support of Sir Henry Clinton, who was expected from England with a moderate force, and in the following year he also expected Sir Peter Parker with a fleet, and Lord Cornwallis with seven regiments.

M'Donald, without waiting for the reinforcements from England, erected the royal standard; and when he had mustered fifteen hundred men, set out to relieve Governor Martin, who had taken refuge on board an English man-of-war, then at the mouth of the Cape Fear. While on this march he was met by General Moore, at the head of about a thousand militia, suddenly raised, by whom the loyalists were routed and defeated. The merit of the victory is mainly ascribed to Colonels Caswell and Dillington, who were posted at a bridge on Moore's Creek, which the loyalists attempted to pass. After this the royal cause became hopeless in North Carolina.

Sir Peter Parker, delayed first in Ireland and then by a long voyage, did not reach the coast of Carolina until May. He thence proceeded to Charleston, against which an expedition had been previously planned. Sir Henry Clinton, who was at Cape Fear, soon followed with the force under his command.

This enterprise having been fortunately learnt through an intercepted letter<sup>1</sup> from one of the ministry to Governor Eden of Maryland, no time was lost in preparing for the defence by John Rutledge, now Governor of the State of South Carolina.

All classes of men, rich and poor, freemen and slaves, united to construct Fort Moultrie, on Sullivan's Island, about six miles below Charleston. Those efforts had

<sup>1</sup> II. Marshall, page 382.

greater merit, as General Lee, who had been sent on by Congress to take charge of the Southern army, thought that the works, being open to attack on one side, were indefensible.

The expedition had been committed to General Clinton with two thousand eight hundred land troops, and Sir Peter Parker with a fleet of two fifty gun ships, three of twenty-eight guns, and several inferior vessels.

On General Lee, whose destination had been suddenly changed from the command in Canada to that of South Carolina, devolved the defence.

The attack was begun by a brisk cannonade, but ere long, three of the sloops-of-war sent to cut off all communication between the island and main land, got aground, and the largest of them, unable to extricate herself, was burnt by the crew. The bombardment was, however, continued throughout the day, during which great bravery and skill was exhibited on both sides; and at night the British, finding that no serious impression had been made on the fort, and their ships having suffered from its guns, abandoned their purpose, and re-embarking their troops, which had been landed on Long Island, departed for New York.

Besides the injury sustained by the ships, the British lost more than two hundred men in killed and wounded. The Americans lost only thirty-five men.

The failure of the British was attributed partly to the grounding of their fleet, and partly to the peculiar character of the American fortification. The palmetto, of which it was constructed, is of a loose, spongy texture, that readily receives a ball and gradually resists it. For this good service the tree has ever since been a favorite in South Carolina.

The thanks of Congress were voted to Major-general

Lee, Colonel William Moultrie, and Colonel William Campbell, for their defence of Charleston.

"The principal measures of Congress in the first months of 1776 were, permission to Virginia, Maryland and North Carolina to export produce to any part of the world, except to the British dominions in Europe and the West Indies, to import so much salt from any place not prohibited by the Association as the Councils of Safety, &c., should deem necessary.

They authorized further emissions of paper-money; prepared instructions to three Commissioners sent to Canada—Benjamin Franklin, Samuel Chase, and Charles Carroll—who were required to represent to the Canadians the wishes and intentions of the Congress respecting them.<sup>1</sup>

They issued also a declaration of the causes which led them to make reprisals, and to capture private as well as public ships belonging to Great Britain.

The Convention of Virginia, on the fifteenth of May, 1776, instructed their delegates in Congress to declare the colonies independent of Great Britain;<sup>2</sup> and they appointed a committee to prepare a declaration of rights and plan of government for themselves.

The State of North Carolina has the honor of being still earlier in proposing a separation. A number of her citizens in the County of Mecklenburg<sup>3</sup> had, indeed, as

<sup>1</sup> II. Journals of Congress, page 97.

<sup>2</sup> The honor of having drawn this resolution is due to Edmund Pendleton, who took a leading part in the measures of Virginia during the Revolution.

<sup>3</sup> The authenticity of the "Mecklenburg Declaration of Independence," on the twentieth of May, 1775, as published in North Carolina, on the recollection of witnesses, many years after its date, has been long questioned; and the controversy, lately revived, may be considered as yet pending. The point in dispute is not whether the people of Mecklen-



early as 1775, shown themselves ready for the separation; but a resolution of their Legislature, on the twenty-second of April, 1776, empowered their delegates in Congress to concur with the other delegates in declaring their independency.

On the twentieth of May the General Assembly of Massachusetts directed that the people of that colony, at the approaching election of representatives, should give them instructions on the subject of independence.

The Assembly of Rhode Island went substantially to the same length.

It had been a favorite object with Congress and with the people of New England generally, to make an attack

burg County did, as early as May, 1775, pass resolutions defying the authority of the mother country, for that fact is now put beyond all question; but whether there was, besides the Resolutions of the thirtieth of May, of which we have a well authenticated copy, published at the time, another set of resolutions adopted ten days previously, but not published; and if so, what was their precise import. The Rev. Dr. Hawks has, in a lecture before the Historical Society of New York, ingeniously and ably defended the North Carolina version of the Resolution of the twentieth of May; and Hugh B. Grigsby, Esq., has, in his Discourse on the Virginia Convention of 1776, urged objections to Dr. Hawks's argument, which, to many, seem unanswerable. He insists that the only resolutions passed by the people of Mecklenburg were those of the thirtieth of May, which do not look to independence.

While I admit the force, I may almost say, the conclusiveness of Mr. Grigsby's views as to the "Mecklenburg Declaration of Independence," I do not agree with him respecting the resolution of North Carolina of twelfth of April, 1776. That resolution, in indicating not only the wish for independence, but the readiness to declare it, went further than any other colony had previously gone. It is true that the Virginia resolution, a month later, in giving positive instructions to its deputies to declare independence, was still greatly in advance of North Carolina; but as the resolution of the latter had the advantage of priority, the merit of first proposing a separation from Great Britain may be regarded as a divided honor between the two States.

on the troops in Boston, as, if successful it would not only give great eclat to the American arms, but perhaps induce Great Britain to abandon all idea of reducing the colonies to submission by force, and to offer them such terms as they could safely accept. General Washington too was in favor of an attack before the British received those reinforcements which were to be counted on in the spring.

Preparations were accordingly begun for the enterprise in December; and in February, when the ice was thick and firm enough to bear the troops, Washington resolved on making the bold experiment. His council of war were, however, almost unanimously opposed to him, and the attack was abandoned. But he decided on taking possession of Dorchester Heights near the isthmus of Roxbury, from which commanding position, should the enemy attempt to drive him, a general action would be brought on; and this he greatly desired. He succeeded in getting possession of these Heights on the second of March, 1776. It was now evident to the British that they must either dislodge the Americans from this post, from which the ships in the harbor and the troops in the town would at once be so annoyed, or that they must evacuate the town. The first alternative was preferred. Washington's plan was to avail himself of the attack of the Heights by the British to enter the town, by troops transported to Boston by water. A storm, however, prevented the meditated attack of Dorchester Heights, and Lord Howe then decided on evacuating the town, which took place on the seventeenth of March, and which the besieging army had no means of preventing. Many of those who had adhered to their cause found it prudent to withdraw from the resentment

of their countrymen by going with the British. They proceeded to Halifax in Nova Scotia.

A vote of thanks was passed by Congress to General Washington and the troops under him for their services on this occasion. The forces under Washington at this time were between fourteen and fifteen thousand.

The British force was said not to exceed nine thousand healthy and effective men. The number of American adherents who went off with them was estimated at fifteen hundred.

On the seventh of June, Richard Henry Lee moved, in conformity with the instructions from the Virginia Convention, a declaration that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and Great Britain was totally dissolved; that measures should be immediately taken for procuring the assistance of foreign powers, and that a confederation be formed to bind the colonies more closely together.

Though the subject of independence had often been freely discussed throughout all the colonies, and it was earnestly desired every where, by bold, ardent, and sanguine tempers, yet the measure was very far from being universally approved. There was a great number who, while they were unwilling to encounter popular odium, or at least, suspicion, by openly opposing independence, were not yet willing to separate themselves from a union which was, on so many accounts, endeared to them; and a yet greater number, perhaps, who were reconciled to that measure, but thought it was premature, and to be undertaken, if at all, when the minds of the people were



more thoroughly prepared for the contest, and when they had a certain prospect of foreign aid.

The subject was fully debated in Congress, and the substance of the arguments on both sides are given by a member, who, taking no part in the debate himself, was able to make a full report of all that was urged by the speakers on both sides. According to his report the arguments for the opponents of independence were :

That though they were friends to independence themselves, being convinced of the impossibility of being again united with Great Britain, they objected to the proposed measure at this time.

That according to their previous policy, they had taken no important step until it had been previously suggested by the voice of the people. This constituted their strength, and without it those measures could not be carried into effect.

That the people of the middle colonies were not yet ready to bid adieu to British connection—but soon would be.

That the resolution of the fifteenth of May for suppressing the exercise of all powers derived from the Crown had shown, by the ferment it had excited in those colonies, that they were not yet prepared for a separation: and that some of them had expressly forbidden their delegates to consent to such declaration—and none of these had given express authority to make it: that if the delegates of any colony had no such power, the other colonies could not do it for them.

That in New York, Pennsylvania, Jersey and Delaware their several Conventions were either now sitting, or soon would be, and would probably declare their wishes on the subject of independence.

That if a declaration were now agreed to, those dele-

gates must retire, and possibly their colonies might secede from the union; and that such a secession would weaken them more than any foreign alliance could compensate. That such a division might, moreover, either prevent foreign states from joining the colonies, or having placed themselves in the power of those states, by that desperate declaration, they would insist on much harder terms.

That the colonies have as yet little reason to expect an alliance with those to whom they had been looking. Both France and Spain would be jealous of that rising power which would one day certainly strip them of their American possessions. It was therefore more likely they would form a connection with Great Britain, who, if unable otherwise to extricate themselves from present difficulties, would agree to a partition of her American territories, restoring Canada to France, and Florida to Spain, to secure a recovery of those colonies. But that it would not be long before they would receive information concerning France from their agent. If her disposition were favorable, by waiting the event of the present campaign, which it was hoped would be successful, they might expect an alliance on better terms; and that this postponement would, from the advance of the season, and the distance from Europe, delay no effectual aid.

That it was prudent in the colonies to determine before-hand the terms on which they would form an alliance, before they declared they would form one. If these terms were agreed on, and their Declaration of Independence were ready when their ambassador was prepared to sail, it would then be as well as to make it now.

On the other side, it was urged

That no one was absolutely opposed to a declaration of independence, or supposed the connection with Great Britain could be renewed, but they differed only as to time.

That the question is not whether the colonies should declare themselves to be what they are not, but whether they should declare a fact that already existed.

That as to the people or Parliament of England, the colonies had always been independent: their restraints on colonial trade deriving efficacy only from acquiescence.

That our connection had been federal only, and was now dissolved by actual hostilities.

That as to the king, though the colonies had been bound to him by allegiance, that bond was dissolved by the late act of Parliament, which declares the colonies out of his protection, and by levying war on them—allegiance and protection being reciprocal.

That James the Second never declared the people of England out of his protection—yet as his acts proved it, Parliament declared it: the delegates thus have the power to declare an existent truth.

That the delegates from Delaware having declared their constituents ready to join—there were only Maryland and Pennsylvania whose delegates were tied up—their constituents having merely reserved to themselves the right of confirming or rejecting the measure: but that the instructions from Pennsylvania were drawn nearly a year ago, since which the face of affairs had totally changed. It had now become evident that Britain had determined to accept nothing less than unconditional submission.

That the people wait for Congress to lead the way: that *they* are in favor of the measure, though the instruc-



tions given by some of their representatives are not: that the voice of the representatives is not always the voice of the people; and this is particularly true in those middle colonies: that this has been strikingly proved by what has taken place in Pennsylvania and Maryland on the resolution of the fifteenth of May.

That the backwardness of those two colonies might be ascribed partly to the influence of proprietary power and connections, and partly to their not having been yet attacked by the enemy: and neither of these causes was likely to be soon removed.

That it would be vain to wait for perfect unanimity, which is not to be expected: that some of the colonies, from the beginning of the contest, seem to show that it was their settled policy to keep in the rear: that therefore it was necessary for those who had hazarded all from the beginning to come forward now and put all again to hazard.

That the Dutch Revolution, of whom only three states confederated at first, proved that a secession of some colonies would not be so dangerous as had been apprehended.

That a declaration of independence could alone render it consistent with European delicacy, for those powers to treat with Congress, or even to receive an ambassador from them. Until this took place they would not receive American vessels into their ports, nor acknowledge the adjudications of the Courts of Admiralty here to be legitimate.

That though France and Spain may be jealous of the rising power of these colonies, they must think it much more formidable with the addition of Great Britain; and will therefore be interested in preventing a coalition; but should they refuse, the colonies will be where they are,

whereas, without trying, they never will know whether they will receive aid or not.

That the present campaign may be unsuccessful — and that the colonies had better propose an alliance when their affairs wear a hopeful aspect.

That France during this summer may afford material assistance by cutting off those supplies of provisions from England and Ireland, on which the enemy's armies are to depend; or by setting in motion the great power they have collected in the West Indies, and calling the enemy to the defence of her possessions in that quarter.

That it would be a waste of time to settle the terms of alliance, till the colonies had first determined that they would enter into such a treaty.

That no time should be lost in opening a trade for the American people, who want clothes, and will want money too to pay taxes.

That it has been unfortunate for them that they had not entered into an alliance with France six months sooner, as besides opening her ports to their trade, she might have marched an army into Germany, and prevented their petty princes from furnishing troops for our subjugation.

This debate was conducted chiefly by Robert R. Livingston, of New York, Wilson, of Pennsylvania, Dickinson of the same State, and E. Rutledge, of South Carolina, against the declaration, and John Adams, Richard Henry Lee and Wythe, of Virginia, in its favor.

It appearing that the middle colonies and South Carolina, though not yet quite prepared for independence, were gradually becoming so, it was deemed prudent to wait awhile for the change, and to postpone a decision till the first of July, but in the mean time they decided

to appoint a committee to prepare a declaration. This committee consisted of Thomas Jefferson, John Adams, Roger Sherman, Benjamin Franklin, and Robert R. Livingston.

At the same time committees were appointed to prepare a plan of confederation for the colonies, and to state the terms proper to be prepared for foreign alliance.

The Declaration of Independence was drawn by Mr. Jefferson, at the request of the other members of the committee, and was reported by the committee on the twenty-eighth of June, and was then laid on the table. Meanwhile the Convention of Jersey had, on the twenty-ninth of June, authorised their members to concur in a vote for independence; and the Legislature of Maryland had taken the same course on the twenty-eighth of June.

The subject was resumed on the first of July, and then postponed till the next day, when it was debated, as well as on the third and the fourth, on which last day the Declaration was finally adopted; and thus the cord was cut which had bound the people of those colonies to Great Britain through the passing and the preceding century.

It did not, however, at first obtain unanimity. New Hampshire, Massachusetts, Connecticut, Rhode Island, Virginia, North Carolina and Georgia had been in favor of the measure when it was first proposed on the seventh of June. New Jersey and Maryland had since concurred. The two members from Delaware were divided. The delegates from New York declared themselves in favor of it, but were restricted by their instructions drawn a twelve-month before — and they did not vote. South Carolina and Pennsylvania voted against it.



Mr. Rutledge requested that the decision should be postponed till the next day, as he believed that his colleagues, though they disapproved the resolution, would vote for it, for the sake of unanimity.

This accordingly took place, and the question whether the House would agree to the resolution passed in the Committee of the Whole was not taken until the next day—the second of July—when, on the motion to concur, South Carolina voted for it. A third member arriving from Delaware, decided her vote affirmatively, and other members from Pennsylvania changed also her vote that morning; so that the Declaration which, on the first of July, had but nine of the thirteen votes in its favor, on the fourth of July had the votes of twelve of the thirteen colonies; and by the ninth of July the Convention of New York approved it, and thus it had the unanimous support of all the colonies.

Several passages of the original draught were struck out either because they might give offence to the friends of the colonies in England, or because it spoke in very harsh terms of the slave trade, since South Carolina and Georgia still continued and approved of the importation of slaves from Africa.<sup>1</sup>

In this paper, which is familiar to all, George the Third is denounced as a tyrant towards the colonies; and his acts, recited in some eighteen or twenty paragraphs, are regarded as affording ample justification for terminating their dependency on Great Britain.

This Declaration has ever been considered by the constituents of those who made it, to mark the era of their birth as a nation, and in this light its anniversary

<sup>1</sup> See the draught and its amendments in the Appendix II.

has been, from that day to the present, the great national jubilee, celebrated by feasts, military parades, orations, and in every way in which a nation can commemorate events which at once excite its gratitude and pride.

We are now about to see how they used this independence; and first, in defending themselves against the attacks of the powerful enemy whose former rights and interests they had thus solemnly annulled.

## CHAPTER III.

### THE WAR OF INDEPENDENCE.

1776—1783.

THE Declaration of Independence was joyfully received by the great mass of the American people. It was thought that it would inspire new vigor in defence of their rights, and afford a test whereby to distinguish the friends of those rights from their enemies. It was read to the army, and received by them with enthusiasm.

In declaring their independence of Great Britain the Confederacy were well aware that they had thrown away the scabbard, and that the sword could not be again sheathed until either their sovereignty was acknowledged or they were reduced to a more abject submission than before.

Nor were they insensible of the perils they encountered. Of men, indeed, they had numerically enough in the colonies to cope with any force that Great Britain, powerful as she was, could send against them; but what could mere numbers do unless they were aided by arms, ammunition, military skill, and discipline?

But all those difficulties known to their leaders, if not to the people, those leaders determined to encounter.

The British government finding that its efforts to punish Massachusetts and reduce her to subjection had proved unavailing, and that the large force sent to Boston, so far from being sufficient to act offensively, had been itself blocked up in a narrow peninsula, where it



had experienced all the inconveniences and privations of a siege, determined to change its plan of operations, and to direct its efforts on a still larger scale to the Middle States.

New York was selected as the point to be invaded. From the number of islands on the coast it was more accessible, and more easily defended by a naval power. The city would afford accommodations to a large garrison; and from its central position, and its immediate communication with the lakes and New England, the British could carry on their operations in the East, in Canada or the lakes on the north, or in the Southern colonies, according to circumstances.

General Howe was accordingly ordered to meet there the reinforcements which would be sent from England under Admiral Lord Howe his brother; and the two were further appointed Commissioners to treat with the colonists on terms of pacification.

Washington, anticipating that this would be the point at which the British force would be concentrated, lost no time, after he left Boston, in preparing for the enemy. The force under him did not exceed eight thousand men. Knowing its inadequacy, he therefore made requisitions for about four thousand men from Massachusetts, New York, Connecticut and New Jersey; and as the enemy might land on the Jersey shore, and thence penetrate into the middle colonies, it was decided to form what was called a flying camp of ten thousand men, to be furnished by Pennsylvania, Delaware and Maryland, all of whom were to serve till the first of December. He was further authorised to call for such aids of militia from the neighboring colonies as he should deem necessary.

The number of disaffected was thought to be greater in New York than in any other province, and it certainly

was very great. They had even gone so far as to form a plot to seize the American General and deliver him up to the British on their arrival. The Mayor of the City of New York and some of the general's bodyguards were concerned in it. By a timely discovery the scheme was defeated, and some of those implicated suffered death.

In the beginning of July, General Howe and the troops under him landed on Staten Island, constituting the most formidable armament that had been then seen on the Western continent. He was well received by the inhabitants, who took the oath of allegiance to Great Britain, and embodied themselves under Governor Tryon for the defence of the Island. Lord Howe, the brother of the General, with his fleet reached Staten Island on the twelfth of July.

To profit by the show of conciliation so likely to encourage the adherents to Great Britain, and to produce some relaxation in the efforts of their opponents, Admiral Howe lost no time in sending a circular letter to the late colonial Governors, and forwarding to them a declaration which he requested them to publish. This declaration stated his authority to grant pardons to those who had deviated from their allegiance and were willing to return to their duty. It declared any colony or place excepted from the penalties imposed by act of Parliament: and that the services of all those who should aid in restoring public tranquillity would be duly considered.

These papers, which had been forthwith transmitted by General Washington to Congress, that body ordered to be published, that the people might see the insidious means resorted to by the British government, for the purpose of amusing and disarming them, and be thus convinced that their valor alone could secure their liberty.

Lord Howe also sent a letter addressed to G. Washington, Esquire, which Washington refused to receive, as it did not acknowledge his public character — an assertion of self-respect and official dignity that obtained the formal approbation of Congress.

Howe, thus foiled in his first attempt to gain the advantage of a show of conciliation, sent Colonel Patterson, his Adjutant-general, with a letter directed to George Washington, &c., &c., &c. — but this was not considered to remove the difficulty; and in reply to Patterson's remark that *et ceteras* implied every thing, Washington said they also implied any thing. After some time spent in this conversation, the parties finding there was no common ground on which they could agree, ended their conference.

In thus suffering so important a negotiation to be broken off on a mere point of etiquette, it cannot be doubted that the real purpose of the parties was different from the ostensible; and that while one wished to obtain the credit for conciliation and concession, the other wished to escape the odium or responsibility of seeming to avoid them; but that neither was disposed to accede to the terms which he firmly believed the other would insist on.

It seems that this show of conciliation did not altogether fail of its purpose. Besides that many of the secret adherents of Great Britain took advantage of the offer of pardon, and flocked to the royal standard, among whom were Galloway, Chief Justice Allen, and other men of distinction in Pennsylvania, some of the Whigs, as the adherents of Congress were called, were led by it to consider reconciliation with the mother country as not altogether hopeless.

To meet the invading force, well supplied with every



thing to give it efficiency, what were the resources of the United Colonies? When General Howe landed on Staten Island, the American troops under Washington did not exceed ten thousand men. On the eighth of August his force, including that of the neighboring posts, was seventeen thousand two hundred and twenty-five, of whom three thousand six hundred and sixty-eight were on the sick list. Subsequent reinforcements increased it to twenty-seven thousand, of whom one-fourth were sick.

A part of this force was on Long Island, at first under General Greene, but he being ill of a fever, the command was given for a short time to General Sullivan, and then to Putnam. The rest were stationed on New York Island, or at posts on Governor's Island, Red Hook, &c. Washington did not think it prudent to send a larger force to Long Island, and too much weaken that in New York, uncertain as he was of the point of attack the enemy might select, since the fleet, by ascending the Sound, furnished the ready means of landing the invading force on New York Island. The American army was very inadequately supplied with arms, ordnance, ammunition, and camp equipage; and a very small proportion of either officers or men had seen service.

The British army having received all its reinforcements in the month of August, prepared for an attack on the American forces on Long Island.

The forces, under the command of Major-general Putnam, were encamped on the neck of the peninsula on which Brooklyn stands. The British army was posted from the Narrows along the south-western shore of the Island, at the distance of from three to four miles. A thickly-wooded ridge, ranging south-west and north-east, ran between the lines of the hostile armies. There were three roads across this ridge: one direct from Flatbush,

a village then occupied by the British, to Brooklyn; another, about a mile south-east of it, ran from Flatbush to Bedford; and the third, four miles further to the south-east, led to Jamaica. The two first passes were defended by three regiments and breast-works; but the pass to Jamaica was undefended.

The British, under General Grant, began the attack at three o'clock in the morning of the twenty-seventh of August, from the west end of the Island. Lord Stirling was sent out to meet them, and as this was supposed to be the main attack, he was reinforced, and the further advance of the enemy was warmly contested. Sullivan was sent to the command of the regiments at the passes, where he was assailed by the Hessians under De Heister. The attack on Lord Stirling was a feint to conceal from the Americans their purpose of making their principal attack on the left and rear of the provincials. This object was greatly assisted by their surprising a scouting party of the Americans about midnight, who were thus prevented from informing their countrymen of the approach of the British, and they at the same time learnt that the pass between Jamaica and Bedford was unguarded. They immediately possessed themselves of it, and at day-break the main body of the British force was thus able to take possession of the level country between Brooklyn and the ridge in front of it; and thus both the right wing under Sullivan, and the left, were successively placed between two fires, and all cut to pieces or made prisoners, except a portion who bravely effected their escape to the camp.

The whole loss sustained by the Americans was about twelve hundred men, mostly captured. The British loss was something more than three hundred. After the battle, the enemy encamped in front of the American lines.

There were not more than five thousand men actually engaged under Stirling and Sullivan; but the enemy's force was at least three times that number. Most of the Americans fought with spirit, especially the troops from Maryland and Delaware; and it was generally believed that the battle would have had a very different result if the whole American force had been on Long Island, or if Greene, who was well acquainted with the localities of the scene of action, had continued in command.

General Washington, who was in New York when the battle commenced, crossed over to Brooklyn while it was going on, but he arrived in time only to witness the hopeless discomfiture of his countrymen. The next day he ordered General Mifflin to cross over with one thousand men to reconnoitre; and, on his report, a council of war decided that no time was to be lost in withdrawing their troops from Long Island. This purpose was carried into execution on the following night with so much secrecy, despatch, and order, that the whole American army of nine thousand men, with all their baggage and artillery (a few heavy cannon excepted), had nearly crossed East River before they were discovered by the British. They were happily favored by a fog, which is rare at that season of the year. This retreat from an enemy so much superior to them, and so near, has always been considered as an extraordinary feat of generalship.

The success of the British on Long Island, the first fruits of the large armament sent to reduce the colonies to submission, had a very depressing effect on the American people. Its consequences were forcibly exhibited by General Washington to Congress. "The check," he remarks, "our detachment sustained on the twenty-seventh ultimo, has dispirited too great a proportion of our troops, and filled their minds with apprehension and



despair. The militia, instead of calling forth their utmost efforts to a brave and manly opposition, in order to repair our losses, are dismayed, intractable, and impatient to return. Great numbers of them have gone off, in some instances almost by whole regiments, in many by half ones, and by companies at a time. With the deepest concern, I am obliged to confess my want of confidence in the generality of the troops." He again pressed upon Congress the necessity of enlisting men for a longer period; and he seemed confident that they had no chance of success without a standing army, that is, one to continue during the war.

Lord Howe, presuming that, after his brother's recent victory, his pacific overtures could be renewed with advantage, sent a verbal message to Congress, by his prisoner General Sullivan, who was permitted to go to Philadelphia to deliver it. He said that though he could not treat with Congress as a public body, he wished to have a conference with some of its members—both he and they acting in their private capacity. That he, with his brother, General Howe, had full powers to settle the dispute between Great Britain and America, upon terms advantageous to both: that he wished such a settlement at this time, when no decisive blow had been struck, and when neither party was compelled to enter into such agreement. That in case Congress was disposed to treat, many things they had not yet asked might be granted, and that if there was any accommodation, the authority of Congress must be subsequently acknowledged.

Three days afterwards—September fifth—Congress requested General Sullivan to inform Lord Howe that they could not with propriety send any of their members to confer with him in their private characters; but that, being desirous of establishing peace, they would send a

committee of their body, to know if he had any power to treat with persons authorised by Congress to hear his propositions. They accordingly appointed Dr. Franklin, Mr. Adams, and Mr. Rutledge, a committee for this conference.

Three days after the appointment of this committee Congress thought proper to change their designation from "United Colonies" to "United States."<sup>1</sup>

The meeting between the committee of Congress and Lord Howe took place on Staten Island, on the eleventh of September, but no more specific proposition was made by him than that the colonies should return to their allegiance and obedience to Great Britain. To this the committee replied, "that a return to the domination of Great Britain was not now to be expected; and, referring to the course of that government, which had led to the Declaration of Independence, and the approbation of that act by the several colonies, they said it was not now in the power of Congress to agree to Lord Howe's proposition. That they were willing to enter into a treaty with Britain, which would be advantageous to both countries, and that Lord Howe could more easily obtain powers from his government to make such a treaty than Congress could obtain from the colonies authority to consent to such submission.

Lord Howe, expressing his regret that there was no prospect of accommodation, put an end to the conference. The committee, in their report of the conference, add that Lord Howe appeared to have no power except to grant pardons and to receive the submissions of any portion of the colonies.

<sup>1</sup> II. Journals of Congress, page 349.

This report, and the message from Lord Howe, Congress deemed it prudent to publish.

A new set of articles of war was adopted by Congress on the twentieth of September, and a loan of five millions of continental dollars authorised, at an interest of four per cent.

The movements of the British army plainly showed that their purpose was not only to get possession of New York, but by means of their fleet on the south, and of a large force sent to the north of the city, to hem in the American army, so as to compel them to put all to hazard in a general engagement, which would too probably result like that of Long Island.

To prevent this, Washington had sent a large part of his army and stores to Kingsbridge, twelve miles north of New York; had left five thousand men in the city, and the rest of his forces between the two points, to aid either, according to circumstances.

At first there was a division of opinion about abandoning New York to the enemy — some thinking the city might be held, and that great efforts should be made to retain it, both on account of its value to the enemy, and because their acquisition of it would have a very discouraging effect on the American people; but it soon became apparent to all that the attempt to retain it by militia against an army, scarcely inferior in numbers, and so superior in efficiency, would be rashness and folly; and measures were at once taken by the General to evacuate the city. There was then a question whether it should be destroyed. General Greene was in favor of this course, but Congress, having been consulted on the point by the commander-in-chief, decided that as the place would hereafter probably be retaken from the enemy, no injury should



be done to it, in case it was found prudent to abandon it.

This purpose was hastened by the conviction the General had that he could not rely on his raw troops. On the fifteenth of September a strong detachment of the British army was taken across East River from Long Island to New York Island at Kip's Bay, about three miles east of the city, at which place strong batteries had been erected by the Americans; but as the troops were landed under cover of the artillery of five ships-of-war, their cannonade so alarmed the garrison that they made a hurried retreat without firing a shot: and two brigades from Connecticut, under Generals Parsons and Fellows, who had been ordered to their support, under a similar panic, also joined in the flight. General Washington, who was brought to the scene of action by the report of the cannonade, exerted himself to rally these craven troops, but without effect.

The forces in the city under the command of General Putnam found some difficulty in making their retreat, which, however, was at last effected with the loss of about fifteen men killed, but more than three hundred prisoners. If the American Revolution owed so much of its success to the judgment and skill of Washington, it must be confessed that it was also much indebted to the military blunders of its adversaries. It has since been confidently believed that if Howe had stretched his lines from Kip's Bay across the Island to Hudson River, he might have cut off the retreat of all the divisions which remained in the city.

General Washington withdrew his whole forces to Harlem Heights, and the city was abandoned to the British, together with all the heavy artillery, most of the baggage, provisions, and military stores—the greater

part of which might have been saved, if the post at Kipp's Bay had been well defended.

The shameful conduct above mentioned is attributed, by one who was himself a soldier of the Revolution, not to a defect of personal courage, but to the want of confidence, which the recent defeat on Long Island had caused, and to the disorganization of the New England troops, arising in a great measure from the officers being elected by the soldiers themselves, and being often deficient in those qualities which fitted them for the exercise of authority. From this or some other cause many of the officers from New England were held in little respect by those of the Southern and Middle States, and provincial jealousy being thus further inflamed, the evils that have been occasionally experienced by allied armies were already felt in this struggle of confederate States in a common cause; and which, in lessening the harmony of the army, could not fail to impair its efficiency.

It has even been said that some of the officers thus elected agreed to put their pay into a common fund, and divide equally with the soldiers; and such was their social equality, that officers were seen performing the function of barber to their men.<sup>1</sup>

A fire broke out in New York a few days after the British obtained possession, which destroyed about one-third of the city. It was at first believed by them that this conflagration had been caused by American incendiaries; but subsequent inquiries have shown that these suspicions were entirely unfounded.

While Washington was strongly posted at Kingsbridge, at the northern extremity of New York Island, he aimed, by means of occasional skirmishes, to train his men to the skill and the firmness required in the field; and oppor-

<sup>1</sup> II. Marshall, page 474; I. Reed.

tunities were not long wanting. Even the day after they left New York, Colonel Knowlton, with his rangers from New England, and Major Leitch, with three companies from Virginia, engaged with a body of the enemy, and drove them from the wood in which they had posted themselves; when General Washington, expecting a further reinforcement of the enemy, ordered a retreat. Knowlton was killed, and Leitch received a wound which proved mortal, in this gallant effort to revive the confidence of their countrymen.

This skirmish cost the Americans sixty men, and the British, by their returns, eighty-four. Insignificant as the affair appeared to be, it had a most encouraging effect on the American army.

In a letter from Washington to Congress at this time—the twenty-third of September—he made the most earnest representations on the mischiefs of short enlistments, on the disadvantages of relying on militia unaccustomed to the privations of a camp, as well as impatient to return home, on the want of qualifications in many of the officers, and on their insufficient pay.<sup>1</sup>

In his letter to his brother written at this time, since published, he shows how deeply he deplored these impediments to his country's success.

His representations on this subject were not without their effect on Congress. That body thenceforward aimed at longer enlistments, that is, for three years, or during the war; and made important alterations in the articles of war.

General Howe thinking Washington's lines too strong to be forced, aimed to get in their rear so that the Americans would be obliged to abandon the post, or fight at such time and place as their enemy should choose.

<sup>1</sup> IV. Sparks's Washington, page 110.



Howe accordingly sent up the Hudson several frigates, which were not impeded either by the two forts on the opposite sides of the river, Fort Washington and Fort Lee, or the chevaux-de-frize sunk between them. He then brought his troops through Hellgate into the Sound, landing at Frog's Neck, on the Connecticut side of the Sound, about nine miles from the American camp. It was now judged, by the American council of war, that their present position was not safe, since the British ships could not be hindered from ascending the river, and that therefore it would be expedient to evacuate New York Island, but to retain Fort Washington, about nine miles above the city — it being thought that this post would, with the aid of further obstructions in the river, prevent the British from ascending it.

The army was accordingly moved from Kingsbridge towards the White Plains, yet farther north, when General Howe advanced in the same direction from Frog's Point through Pelham's manor towards New Rochelle, not far from the Sound.

During these movements some skirmishes occurred near East Chester, in which Washington was satisfied with his countrymen. At New Rochelle Howe received reinforcements both of Germans and Irish; and both parties marched towards the White Plains. Here the American troops formed a line of intrenched camps extending twelve or thirteen miles on different heights from about Kingsbridge to the White Plains, with a small river, the Bronx, between them and the British.

A few skirmishes then took place, in which the Americans obtained some advantage; but these partial rencounters, which had been encouraged by Washington, were carefully avoided by Howe, whose object was to bring on a general action; and who knew, moreover, that the

term for which the American soldiers had enlisted, must soon expire.

Washington, having crossed the Brunx, took possession of the heights on the east side of the river. His right flank was covered by this stream. His left was nearly parallel to his right, and extended along the high ground in a northerly direction. General M'Dougal was posted on the west side of the Brunx with sixteen hundred men, to cover the right flank, the river being fordable without difficulty.<sup>1</sup> They strengthened their position by such entrenchments as time had permitted.

General Howe prepared for attacking the American camp. On the twenty-eighth of October he advanced in two columns—the right led by Sir Henry Clinton, the left by General Knyphausen, with General Howe. The action commenced with a cannonade, which, however, had little effect on either side. The enemy's right was behind a rising ground a mile from the camp, and was opposite the American centre.

Howe deeming the possession of the hill occupied by M'Dougal important to his purpose, ordered troops across the Brunx to attack him in front and rear. The militia, which composed the chief part of M'Dougal's force, immediately took to flight. The regulars sustained themselves with firmness; but, overpowered by numbers, they were forced to retreat. The remainder of M'Dougal's corps were then driven from the hill, and retreated to the main army. The loss in this affair was supposed to be equal on both sides—that is, to each between three and four hundred in killed, wounded and prisoners.

Washington expected an attack in his lines, and prepared for it; but it was first delayed for an expected reinforcement from New York, and was subsequently pre-

<sup>1</sup> II. Marshal, page 502.

vented by a heavy rain, until the General, no longer thinking his position safe, withdrew to North Castle, about five miles from the White Plains.

Howe then decided to change his plan of operations. He marched his army back to Kingsbridge; and Washington, judging that his object was to cross over to New Jersey, and perhaps aim at Philadelphia, ordered his troops to the west of the Hudson; and to effect the passage in safety with only five thousand men, it was necessary to ascend the river to King's Ferry. On the approach of the British, the Americans stationed near Fort Independence retired higher up the river to Fort Washington.

The Commander-in-chief presuming that Howe would endeavor to possess himself of Fort Washington, wrote to Greene, who had the command in New Jersey, that since the Fort had not answered its intended purpose, as appeared by the passage of three frigates up the Hudson in safety, he thought the men and "stores ought not to be hazarded;" but he submitted the decision of the matter to Greene, who was on the spot. General Lee was left on the eastern side of the Hudson, and had orders to join Washington, if Howe should move the chief part of his force across that river. Greene overrating the strength of Fort Washington, and thinking that further obstructions might prevent the British from ascending the river, decided on retaining it. It was naturally strong, and it was commanded by Colonel Magaw, an officer of reputation. The place was, however, attacked on the sixteenth of November, in four divisions; and the enemy having carried the outworks and lines, Colonel Magaw finding further resistance unavailing, consented to a capitulation. The number of prisoners, including a reinforcement sent by General Lee, was two thousand eight hundred and eighteen.



This serious disaster has afforded much occasion for censure, sometimes on General Greene for his error of judgment, and sometimes on Washington for not having overruled Greene, after he himself was sensible of the little real value of the fort for its chief purpose, and of the difficulty of retaining it. It contributed with some to bring on Washington the imputation that he wanted decision; and seemed to be the beginning of that distrust of his qualifications as Commander-in-chief, which was subsequently manifested, but which he at last totally overcame.<sup>1</sup>

A few days later Fort Lee, on the opposite bank of the Hudson, fell into the possession of the enemy — the garrison, profiting by the example of Fort Washington, had previously abandoned it, and crossed to the west side of the Hackensac. All the cannon and stores, except the ammunition, fell into the hands of the enemy.

Washington's force was now so reduced by the numbers who had returned home after the expiration of the term for which they enlisted, that he urged General Lee to join him; but under one pretext or another, Lee remained on the east of the Hudson; and, as is now generally believed, because he was desirous of signaling himself, either by an attack on the City of New York, or the rear of the enemy, and thus, perhaps, to raise his reputation at the expense of that of Washington. Whatever were his motives, he paid dearly for the course he took. Passing a night at a private house three miles from his camp, the British, who were informed of it by some tories, sent a detachment next morning, and made him prisoner. This was regarded as another serious

<sup>1</sup> Washington's defence of himself may be found in a letter to his brother, dated three days after the surrender.—See IV. Sparks's Washington, page 183.

disaster to the American cause, as he had a high reputation for military skill, which the recent defence of Fort Moultrie had greatly augmented. General Sullivan, who was next in command, after this occurrence, soon joined the main army in Jersey.

As Washington was exposed to the danger of being hemmed in between the Hackensac and Passaic, in the same way as he had been previously exposed between the Hudson and Hackensac, he found it necessary to move on towards the Delaware, which he finally reached through Newark, Brunswick, Princeton, to Trenton — the British so closely pressing on his rear, that sometimes, at the moment that the Americans had destroyed a bridge, the British advanced guard had arrived, ready to rebuild it.

When he reached Trenton, he sent over his stores and baggage, and decided to march back to Princeton, with the view of delaying the progress of the enemy; leaving two thousand four hundred men at Trenton, under the command of Lord Stirling.

General Mifflin had been sent on to use his influence in Philadelphia and with Congress to procure reinforcements, and by great efforts succeeded, to the amount of two thousand men; but before the troops from Philadelphia had all arrived, while on his march to Princeton, understanding that Cornwallis had been strongly reinforced, and was endeavoring, by a rapid march, to get in his rear, he decided on passing the Delaware. Having made the passage, he used all the means he could command to destroy bridges and other facilities for crossing the river.

Lord Howe now issued another proclamation commanding all persons in arms to disband, and all civil officers to desist from treasonable practices, in conse-

quence of which numbers flocked to his standard, and gave in their adhesion.

This was, perhaps, the period when the American cause was at its lowest point of depression. The minds of all were filled with gloom and apprehension. A foe formidable by superiority in numbers, as well as in skill, discipline and appointments, was in close pursuit of the main body of the American army, which, already so inadequate to defence, was every day losing its most efficient men, while the number of disaffected increased with the success of the British, and the growing feebleness of the Americans. Then it was that the firm texture of Washington's mind was truly displayed: his efforts redoubled with his difficulties, and however desperate he might have thought the condition of the army to be, he neither said nor did any thing to betray his want of confidence. Then, too, it was that, when asked what he would do if the enemy obtained possession of Philadelphia, he answered, We will retreat beyond the Susquehanna, and if necessary, beyond the Alleghany Mountains.<sup>1</sup>

Howe, finding himself unable to transport his troops across the Delaware, decided on going into winter quarters at Princeton, Trenton, Bordentown, &c., while Washington's force was encamped at different stations in the neighborhood of Philadelphia.

The remonstrances of Washington, founded as they were on facts known to all, had a proper influence in Congress. After they had authorised eighty-eight battalions to be enlisted for the war, on Washington's representations that even this force was not sufficient, he was authorised to raise sixteen battalions of infantry in addi-

<sup>1</sup> I. Sparks, page 221.



tion, and to appoint the officers; to raise and equip three thousand light-horse, three regiments of artillery, and a corps of engineers; to call upon any of the States for aids of militia; to displace and appoint all officers under the rank of brigadier; to take whatever he wanted for the army, allowing a reasonable price for it; to arrest and confine those who refused the continental money. They invested him, in fact, with the powers of a dictator,<sup>1</sup> which were to continue six months.

The next day, aware of the jealousy felt against military power, Congress appointed a committee to prepare a circular letter to the several States, explaining the reasons of that body for enlarging the powers of the Commander-in-chief, and requesting the co-operation of the States.<sup>2</sup>

No doubt being entertained that the British would cross the river as soon as it was frozen, to attack Philadelphia, Congress adjourned to Baltimore on the twelfth of December, to meet on the twentieth.

In this moment of despondency, Washington had the bold and lucky thought<sup>3</sup> of attempting offensive operations.

<sup>1</sup> II. Journals of Congress, page 508.

<sup>2</sup> Ibid. page 529.

<sup>3</sup> An English historian, Mr. Adolphus, who has been followed by Lord Mahon, has attempted to give to Benedict Arnold, on the authority of an unnamed informant, the credit of first suggesting the attack on the Hessians at Trenton; but Washington's published letters plainly show that he meditated such an enterprise before Arnold had returned from the expedition to Canada; and that he exerted himself to concentrate the forces under Lee, Gates, and Arnold, to carry the scheme into execution.

In his letter to General Gates, of the fourteenth of December, he plainly indicates his purpose; as he does also in a letter to Governor Trumbull of the same date. He at the same time ordered Arnold (on his way from Ticonderoga) to New London; but Arnold being on his route to head-quarters, did not receive the order, and seems to have arrived at Philadelphia about the twentieth of December.

Knowing that the British force had been distributed in the different towns of New Jersey that were very remote from each other, and that there were about fifteen hundred Hessians at Trenton, he determined to attempt to surprise them when they would probably be unprepared for an attack.

He divided his force into three parts—one under General Cadwalader, another under General Ewing, and the third—the main body—under his own command. Cadwalader was to attack the small detachments posted at Bordentown, Burlington, and other posts in the vicinity; Washington was to cross the Delaware above Trenton, and Ewing, a little below it: they were then to form a junction, and unite in attacking the Hessians at Trenton. The night selected for the attack was that of Sunday, the twenty-fifth of December. The weather was intensely cold, so that the boats found great difficulty in getting across the river on account of the floating ice. Of the two divisions, one was led by Sullivan, the other by Greene. They reached Trenton, on opposite sides, at eight o'clock in the morning. The Hessians finding

When the scheme was about to be carried into execution, it was necessarily communicated to several. It was certainly known to General Greene on the twenty-first, as appears by the letter of that date cited by Mr. Sparks (Vol. V. 542); and from the coincidences between several passages of Colonel Reed's letter to Washington, of December twenty-second, recommending such an enterprise, the plan seems to have been also communicated to him. Indeed, it was probably by this time known to most of the higher officers of the army.

The "private information" given by Adolphus as his authority, was probably derived from Arnold. One of his rank and reputation would naturally be consulted about the details of the scheme; and he with his proneness to falsehood, since laid bare to the world, would thus be led to arrogate the merit of first suggesting it. — See Lord Mahon's Hist. Chap. LIV.; and IV. Sparks's Washington.

themselves surrounded, after a feeble defence, surrendered themselves prisoners of war.

In the resistance at first attempted, the Hessians lost thirty men, (including Colonel Rahl), who were killed or mortally wounded; six brass field-pieces, and one thousand stand of arms were taken. On the part of the Americans two were killed, and two frozen to death — Corporal William Washington, and Lieutenant Monroe, afterwards President of the United States, were wounded in capturing the enemy's artillery.

The freezing of the Delaware was so rapid, that the other divisions could not cross that river; and thus make the success yet more complete. The English light-horse and five hundred Hessians effected their escape in the beginning of the action. Washington returned to his camp the same day. Having refreshed his men, he recrossed the Delaware at Trenton, to improve his advantage according to circumstances; and he was then joined by eighteen hundred Pennsylvania militia under General Cadwalader, and an equal number under Mifflin. Most of the regulars having now served out their time were about to return home, but were prevailed upon to continue in service six weeks longer by a bounty of ten dollars per man.

On hearing of the capture at Trenton, Lord Cornwallis was sent from New York to take command in the Jerseys, and the forces of both parties approached so near as to be separated only by the small stream of the Assanpink. The night put an end to their cannonading and skirmishing, and in the morning Cornwallis purposed to renew the battle, in which, having the advantage in numbers, as well as discipline and experience, he counted on a certain victory. But in the morning they found the enemy had effected his escape. This was the second



masterly retreat by which Washington had eluded his enemies, when seemingly within their grasp. By both he had given safety to his army ; and the second had, moreover, led to victory. It occurred to him that the British had left but a small force at Brunswick. Instead, therefore, of returning to the Delaware as would be naturally expected, he determined to push on in the opposite direction to Brunswick, take the enemy there by surprise, and capture his stores. In the execution of his plan, he reached Princeton a little after sunrise, and there found three British regiments, with two of which, on their march to join Cornwallis, the Americans immediately engaged. The action begun with the van of the Americans led by General Mercer, and after a sharp attack, this officer fell, and his troops, who were mostly militia, gave way. But Washington, bringing up his men, by his personal efforts changed the fortune of the day. Thus closely pressed, the British retreated. The two regiments engaged effected their escape: and the third regiment remaining at Princeton saved itself by a rapid retreat to Brunswick. The British in this action lost more than one hundred killed on the spot, and near three hundred were taken prisoners. The Americans lost a less number, but among them was General Mercer, by birth a Scotchman, an officer highly esteemed, who had served with Washington in the war against the French and Indians. He was the more esteemed, inasmuch as there was a very small number of his nation who sided with the Americans in the present contest.

Washington's army, exhausted by fatigue, want of sleep, and suffering from the severity of the season, which they were ill prepared to encounter—and now pursued by the main body of the enemy, was in no little danger. They finally reached Morristown, in the

northern part of New Jersey, where they found safety and rest.

Nothing could have been more opportune to raise the drooping spirits of the Americans than these successes at Trenton and Princeton. It excited astonishment every where, that an army which had appeared to be broken down by a succession of defeats, and ill supplied with all that contributes to give an army efficiency, should turn on an enemy at once victorious and superior, and regaining the ground it had lost, put them on the defensive. It raised the military character of Washington very high both in Europe and America, and he was every where called the American Fabius. The effect was the greater among his countrymen, because the Hessian troops had been deemed particularly formidable. Their foreign language, and their strange dress, contributed to this effect on the popular mind.

On the twenty-fifth of January, 1777, Washington issued his proclamation against the Tories of New Jersey; and at the same time the Whigs, as the friends of independence were called, retaliated on the loyalists with great severity. He required all those who had subscribed a declaration of fidelity to Great Britain to repair to headquarters, there deliver up their certificates, and take the oath of allegiance to the United States; but allowing liberty to all who preferred the interests of Great Britain to withdraw themselves and their families within the enemy's lines, and, indeed, requiring them to do so on pain of being considered as enemies.

This proclamation, which was intended, as it declared, to distinguish between friends and enemies, was openly censured by one of the delegates of Jersey as an unwarrantable stretch of power, and an interference with the rights of a sovereign State. There was, it may be here

remarked, from the first a jealousy of military power exhibited throughout the colonies, which was often mischievous, and which nothing but severe misfortune caused Congress to overcome.

After General Lee was captured, as he had been on half-pay in the British service, it was proposed to treat him as a deserter; but it being found that he had resigned his half-pay when he accepted a commission in the American army, and Congress having threatened to retaliate on the Hessian officers captured, any measures of severity taken against Lee, the purpose of the British was abandoned.

Let us now return to the state of things in Canada. After the British regained possession of all the portions of that province which had been taken from them in the commencement of hostilities, it became important to the Americans to defend its frontier, from which New York and the Middle States might be invaded, and thus the New England provinces be separated from the rest. General Gates was therefore appointed commander of the army in Canada, and as such he claimed the command of Fort Ticonderoga, to which General Schuyler had been appointed, though he was Gates's senior officer, and the Fort was not in Canada. Congress at once corrected this unfounded pretension.

With a view of having a secure access to Albany, the British deemed it essential to get command of Lakes George and Champlain, and made every exertion to effect this purpose by providing a fleet superior to that of the Americans, in which, by means of their greater resources, they were entirely successful. The fleet which the Americans had been able to provide consisted of but fifteen small vessels, the largest of which mounted only twelve six-pounders, and the command of which was given to



Arnold. The British, in the beginning of October, had a fleet consisting of one ship of eighteen twelve-pounders, one of fourteen and another of twelve six-pounders, twenty gun-boats carrying guns of from nine to twenty-four pounders or howitzers, besides some long boats and tenders.

On the fourth of October there was an engagement between the two fleets, and the largest vessels of the enemy not being able to get into action, on account of the wind, Arnold was able to maintain the unequal fight, with the loss, however, of his best schooner and a gondola. In the night he made his escape, but the next day was overtaken, when the battle was renewed. The foremost of his little fleet reached Ticonderoga. One of his gondolas was captured, and finding escape impracticable, he ran his remaining vessels on shore and blew them up. By his conduct in this unequal combat, he greatly increased his reputation.

General Carleton having taken possession of Crown Point, which its garrison had previously evacuated, approached Ticonderoga; but as Gates and Schuyler had a force of between eight and nine thousand men, he made no assault on it, but went into winter quarters, to the great relief of the garrison.

Early in November of the preceding year Sir Henry Clinton had, with about three thousand men, sailed from New York for Newport, in Rhode Island, and took possession of the Island, after a slight resistance.

There was also reason to apprehend hostilities from the Indians, who had stipulated to observe neutrality. One of the subjects of complaint against those who conducted the war on the part of the British was the treatment of American prisoners, which, as well as their exchange, gave occasion to a correspondence of Wash-

ington both with General Howe and his brother Lord Howe. Retaliation, which was the natural remedy in such cases, and was threatened by the Americans, was insufficient on the present occasion, as the prisoners in the possession of the British exceeded those held by the Americans by upwards of two thousand. After an exchange, then, a large number would remain; and it is beyond all doubt that they experienced unusual harshness of treatment, in consequence of which many contracted disease, and prematurely perished. The worst cases were those who were confined in prison-ships in New York harbor.

In the present year, 1777, the paper-money having been steadily increasing both by the issues of Congress and of the State governments, necessarily depreciated; and Congress becoming convinced of this unwelcome truth, endeavored to retard and mitigate the evil that they knew it was beyond their power entirely to prevent. On the fourteenth of January they passed resolutions that the continental money ought to be maintained at its nominal value; that those who should exchange their goods for more in bills than in specie should be deemed enemies to the liberties of the United States, and should forfeit the value so exchanged. The Legislatures of the various States were, moreover, recommended to enforce these penalties; to make the bills a legal tender; to provide for calling in and sinking their respective quotas of the emissions; and lastly, to raise by taxation such sums as they should think required in the present situation of the country. They also proposed to borrow two million of dollars at the loan office — the bills of credit issued by the States to be received by the Commissioners.

General Howe, taught caution by the successes of his adversary at Trenton and Princeton, decided on con-

tracting the line of his cantonments; and he concentrated all his troops in New Brunswick on the Raritan, and in Amboy at its mouth. When he withdrew his troops from Elizabeth Town, the Americans, by an attack on their rear, captured a part of their baggage and made seventy prisoners. The entire residue of New Jersey was virtually now in the possession of the provincials.

In the spring of the year small expeditions were undertaken by both the belligerents before the campaign was regularly opened. In one against Peekskill, on the North river, by the British, and another against Danbury, in Connecticut, where stores were deposited, the towns were captured and the stores destroyed. In the skirmish at Danbury, the American General, Wooster, was killed. The militia, headed by Arnold, hung on their rear, and greatly annoyed them. The Americans, under Colonel Meigs, in whale-boats, soon afterwards attacked Sagg Harbor, on Long Island; burnt a dozen small vessels; and destroyed stores and provisions to a large amount. They are said to have made this expedition in twenty-five hours, traversing in that time ninety miles by land and water. They killed six of the enemy, and took ninety prisoners.

In May, General Washington broke up his camp at Morristown, and took a strong position near Brunswick at Middlebrook. Sir William Howe, who had been knighted for his success on Long Island, endeavored to draw him from that position; but without success: he then returned to Amboy, and threw a bridge across to Staten Island, when Washington, with a view of defending some weak stations on Howe's line of march, and of annoying him on his retreat, moved to Quibbletown, six or seven miles from Middlebrook, on which Howe, by a rapid movement, endeavored to cut off his enemy's



retreat to Middlebrook; but Washington, anticipating Howe's purpose, promptly regained his position at Middlebrook. Sir William, finding that Washington was not to be drawn from his present position, returned to Amboy, and passed over his army to Staten Island with a view to its embarkation.

While General Washington was in a state of perplexity as to the purpose of Sir William Howe, whether he meant to ascend the Hudson and co-operate with Burgoyne, or go to the south, General Prescott, who commanded at Rhode Island, was captured by a party under circumstances very similar to those of Lee. This capture gave peculiar satisfaction, as it suggested the exchange for Lee, which subsequently took place.

Howe at length embarked with his army, and proceeding coastwise entered the capes of Virginia, ascended the Chesapeake, and landed at the head of Elk.

Washington confined his preparations for defence to Mud Island in the Delaware, nine miles below Philadelphia, and to Red Bank, in New Jersey, opposite the Island. A good deal of pains was taken by Howe, both by his movements and letters, to mislead Washington as to his real object; but they all failed of their purpose. While he still believed that Philadelphia was Howe's object, he did not neglect any precautions that would be required, if it had been the North River.

After Howe had embarked his troops, Sullivan attempted an expedition against the sixteen hundred men he had left on Staten Island; but by mismanagement in the execution, it signally failed. He lost more prisoners than he took.

At the same time Washington advanced to Brandywine, in Delaware. The different corps of regulars, together with the militia of Pennsylvania, Maryland and

Delaware, were estimated by Howe at fifteen thousand men; but many of them were without arms, and some ill provided with clothing, so as greatly to reduce the effective force, which, militia included, did not exceed eleven thousand men.

The whole American army was posted behind Red Clay Creek, having its left on the Christiana, its right extending up the Creek to Hockesson township. Here Washington thought the fate of the campaign might probably be decided. But in the night, believing that the object of the enemy was to get in his rear, he crossed the Brandywine.

On the ninth of September the two armies were about seven miles apart, on opposite sides of the Brandywine, which being almost every where fordable, presented no obstacle to an engagement.

To prevent the enemy from getting possession of Philadelphia was deemed of sufficient importance to justify the hazard of a battle; and accordingly, when the British were on their march to Chadd's Ford, the Americans were prepared to oppose them. After manœuvring on both sides, the action began at half-past four in the afternoon. But the American right soon began to give way, until the whole line was completely routed. Washington attempted to support the right wing, but was too late. Yet he was able to keep the victors in check, and to induce Howe to give over the pursuit. The whole American army retreated that night to Chester, and the next day to Philadelphia. The loss they sustained was about three hundred killed and six hundred wounded. Between three and four hundred, principally of the wounded, were made prisoners. Sir William, in his official account, stated his loss at less than one hundred killed and four hundred wounded.

Congress was disposed to risk another battle before Philadelphia should be given up to the enemy, and vigorous preparations were made to increase the numbers of their army. The troops were complimented and encouraged by the Commander-in-chief; for in truth many portions of them had behaved extremely well; and it was every where confidently asserted that the loss of the enemy had exceeded their own.

Having allowed one day for refreshing his army, Washington recrossed the Schuylkill, and proceeded on the Lancaster road, with the intention of risking another action. Howe, the day after the battle, detached a part of his army to Concord meeting-house. Having been there joined by Cornwallis, he proceeded to Chester. On the sixteenth, the two armies approached each other and prepared for battle. A heavy rain then falling, their guns and cartridge-boxes were so much injured by it, that the Americans were compelled to retreat. After a slight skirmish they recrossed the Schuylkill, and proceeded to French Creek. The severity of the weather<sup>1</sup> prevented any further pursuit by the British army. Washington crossed the Schuylkill at Parker's Ferry, and encamping on the east of that river, on both sides of Perkioming Creek, to prevent Howe from getting in his rear, he marched up the river towards Pottsgrove, when Howe determined to cross the Schuylkill and take possession of Philadelphia, which nothing could now prevent but a decisive victory.

General Wayne, posted at Paoli, three miles from the rear of the British, was surprised, on the night of the twentieth, by General Gray, with the loss of near four hundred men, in killed, wounded and prisoners. Washington decided on avoiding an action; for, besides that

<sup>1</sup> III. Marshall, page 159.



he was daily expecting reinforcements, his troops had recently suffered much from exposure, fatigue, and sometimes a scarcity of food. They were in want of blankets and shoes. Congress exerted themselves to supply these deficiencies, and made special application to the Executive of Pennsylvania to impress the articles needed, but they would not venture on measures of so arbitrary a character; the evil was, therefore, not remedied. The British took possession of the city on the twenty-sixth of September, 1777.

On the twenty-seventh of February, Congress adjourned from Baltimore to Philadelphia. They assembled on the twelfth of March, though they had adjourned to the fourth.

As soon as the issue of the battle of Brandywine was known, Congress fixed on Lancaster as the place of its meeting.

After Philadelphia was in the possession of the enemy, it was desirable to prevent a communication by water with their fleet; for which purpose *chevaux-de-frize*, of great magnitude and strength, had been sunk between Mud Fort and Red Bank, just below the junction of the Schuylkill with the Delaware; and three miles lower down other machines of the same character had been constructed. These works were defended by redoubts and galleys mounting heavy cannon, floating batteries, &c. The frigate Delaware, being left aground above the Fort by the ebb tide, was captured by the enemy.

The force of the American army was about eight thousand regulars and three thousand militia, and was posted twenty miles north-west of Philadelphia, and sixteen miles from Germantown. The main British army was encamped at Germantown. Lord Cornwallis, with four regiments of grenadiers, was in Philadelphia.

With a view to open a communication with the fleet below, General Howe sent a detachment to get possession of the fort at the lower chevaux-de-frize, that they might be removed, and the fleet below get up to Mud Island. This fort was taken without difficulty, and the removal of the lower obstruction in the river could proceed with less interruption. Colonel Stirling, who was appointed to this duty, then proceeded to Chester to escort provisions to Philadelphia.

General Washington thought that when the British force was thus divided, he might attack the enemy's camp at Germantown, and if successful, it would decide the fate of Howe's army. He accordingly prepared to attack both wings and the rear at the same time.<sup>1</sup> On the fourth of October, at sunrise, the attack was begun by the advance under General Sullivan. The main body followed closely on them; but Colonel Musgrave, in retreating, got possession of a large stone house (Chew's), from which his men kept up a galling fire, and all attempts to dislodge them proved ineffectual. This abortive effort, together with a thick fog, threw the right wing into confusion. Greene then made a successful attack on the right wing of the enemy, and the prospect of success was very promising; but in the confusion and uncertainty caused by the fog, the less experienced and less self-possessed American troops were thrown into disorder. The more practised enemy found time to recover from their first disadvantage,<sup>2</sup> and making a vigorous attack, succeeded in surrounding and capturing a body who had entered Germantown, and in compelling the first assailants to retreat. Washington now had the mortification to find that all chance of the victory which he thought almost consummated, was entirely lost. About two hundred of his men

<sup>1</sup> III. Marshall, page 177.

<sup>2</sup> Ibid. page 181.

were killed, and six hundred wounded; about four hundred were made prisoners. Howe lost something more than five hundred, of whom less than one hundred were killed.

Congress, on the eighth of October, passed a resolution, in which they unanimously gave thanks to the Commander-in-chief for his wise and well-concerted attack at Germantown, and to the officers and soldiers for their brave exertions on that day — they being satisfied that the best designs and boldest efforts sometimes fail by unforeseen circumstances.

By way of diverting a part of the American forces, Sir Henry Clinton had entered Jersey in September with three thousand men; but finding a large force collecting to oppose him, he returned to New York.

The lower obstructions in the Delaware being removed, General Howe prepared to make a joint attack on Mud Fort, or Fort Mifflin, with the naval and land forces. In an assault on Red Bank led by Colonel Donop, a German officer of great reputation, he was killed, as well as his second in command. The attack failed, with the loss of about four hundred men.<sup>1</sup> In the attack on the Fort, the

<sup>1</sup> Lord Mahon has repeatedly shown, in his History of England, that he could justly appreciate General Washington's exalted merit; but on one occasion he has been strangely led to detract from it.

In that General's instructions to Putnam, when placed in circumstances requiring great circumspection, he was advised "to give out his strength to be twice as great" as it was; and when, the day after the repulse at Red Bank, an officer informed Washington that the loss of the Hessians was about seventy killed and as many wounded, and the General, some days later, stated to General Lincoln their loss to be about four hundred, Lord Mahon thinks that Washington was putting in practice his own precept of *doubling*; in other words, that because he had sanctioned the practice in war of deceiving his enemies, he had the meanness and folly to deceive his friends.

If Lord Mahon had shown his wonted fairness and respect for truth,



Augusta sixty-four gun ship having taken fire, blew up. The Merlin sloop, near her, was also burnt. Both these vessels had grounded in ascending the river, and could not be got off. After General Howe moved into Philadelphia, Washington changed his position to Whitemarsh, fifteen miles from that city. Fort Mifflin required eight hundred men for its defence, and had only three hundred. There were, besides, misunderstandings between the Commodore and Colonel Smith; and between the Commodore who was in the service of the State and the continental navy officers.

On the tenth of November the attack was begun on Fort Mifflin from a strong battery on Province Island, about five hundred yards from Fort Mifflin, which being continued for several days, dismounted the guns and reduced the block-house to ruins.<sup>1</sup> In the night the garrison attempted to repair the injuries done in the day, and fresh troops were ordered to their relief. The defence

he could not have yielded to such logic. It would have occurred to him that an account of the loss sustained by the enemy in a sharp contest which closed after sunset the day before, was less likely to be correct than one given several days later; that the number of the wounded was likely to be several times as great as the number of the killed; that Marshall, who is commonly cautious, and always honest, in his numerical details, states the loss at about four hundred men; and lastly, that the Annual Register, on which the noble author often and properly relies, confirms Washington's statement in the following passage, which Lord Mahon must have overlooked:

"The loss of the Hessians, whether as to private men or officers, was never particularly authenticated; it was, however, known to be very considerable, probably not less than four or five hundred men."

I am unwilling to believe that Lord Mahon, reversing the rule which candor prescribes to every historian, praises Washington from necessity, but censures him from choice. — See Lord Mahon's Hist. Chap. LIV.; Sparks's Washington, Vol. IV. and V.

<sup>1</sup> III. Marshall, page 213.

being thus obstinate, frigates were brought up the river, and maintained an incessant fire: at length, longer defence being found impracticable, Fort Mifflin was evacuated. Washington then attempted to defend Fort Mercer, situated between Mouth and Timber Creeks, in Jersey; but that being threatened by an overpowering force, was also evacuated. The enemy was thus in possession of both shores, and no longer had any obstructions in the communication between the fleet and the army in Philadelphia.

Let us now turn to the operations of General Burgoyne in the north.

In the beginning of the year the British ministry, encouraged by the success of Howe's army, with the view of bringing the contest to a close, decided on sending a large force to Canada. Their plan was that this force should unite with the troops in New York, and thus overpowering all resistance, take possession of Philadelphia; after which the conquest of Pennsylvania, Maryland and Virginia was to follow. Those central and rich provinces being in their possession, first the Southern, and then the Northern, States would eventually be compelled to submit. The expedition was to be commanded by General Burgoyne, who, it is said, had a principal share in planning it; and the force placed at his disposal was eight thousand men, including three thousand Germans, with an amount of artillery unusually large. Burgoyne reached Quebec early in the year, sooner than was thought practicable. At a great council of the Indians he endeavored to secure them as allies; and offered them pecuniary rewards for prisoners, but claimed credit that he offered none for scalps. He reached Ticonderoga, and possessed himself of a steep hill which commanded both that fort and Mount Independence. General St. Clair,

who commanded, thinking the forts, thus exposed, could not be maintained, called a council of war, consisting of the general officers and Colonel Long, who unanimously advised the evacuation of both forts. This was immediately put in execution by St. Clair. The garrison, the invalids, and a part of the stores were withdrawn in the night, and put on board of batteaux for Skenesborough. The retreating army did not, however, long elude the vigilance of the enemy. It was closely pursued by Generals Frazer and Reidesel; and in the several encounters which ensued, St. Clair lost, by capture or on the field, twelve hundred of his men. He joined Schuyler at Fort Edward, and their united force was about five thousand. When he approached this fortress, Schuyler, not thinking it tenable, retired first to Saratoga, and then to Stillwater, near the Mohawk.

While at Skenesborough, Burgoyne issued a proclamation calling upon the inhabitants to submit to the royal authority. A counter proclamation was issued by Schuyler, warning the inhabitants of the condition of the people of New Jersey.

The capture of Ticonderoga, which had so strong a garrison as five thousand men, and on which so much money had been spent, produced both alarm and surprise throughout the country, and suspicions immediately arose of treachery. Congress recalled all the generals in that division of the army, and instituted an inquiry into their conduct; but at the instance of General Washington the recall was suspended. On the inquiry which subsequently took place, they were all honorably acquitted.

General St. Clair alleged that the garrison numbered only three thousand effective men, and that ten thousand were required for its defence: that the works were incomplete, provisions insufficient, and other excuses.



Washington, after expressing to Schuyler his surprise and mortification, suggested that a spirited opposition would check the progress of Burgoyne's army, and adds, with characteristic sagacity, that the confidence derived from success would hurry him into measures that would be favorable to the Americans. He continued to entertain the same views, and to express the same predictions.<sup>1</sup>

Burgoyne had been so delayed in his march, that he did not reach the Hudson, in the neighborhood of Fort Edward, till the thirtieth of July. As soon as it was known that he had no communication with Ticonderoga except through Lake George (having evacuated Castletown), General Lincoln, with his corps of two to three thousand men, decided on trying to cut off his communication with the lakes. Burgoyne continued his march on the east side of the Hudson, and at length crossed the river, and took a position at Saratoga.

While Colonel St. Leger was investing Fort Schuyler, General Herkimer, in his march to relieve the fort, fell into an ambuscade, and was defeated by the British and Indians, with the loss of four hundred men. A gallant sortie was made by Colonel Willet, who, after killing some of the enemy, returned to the fort without the loss of a single man.

During this siege Burgoyne was using every effort to transport, by batteaux, provisions and stores from Fort George to the nearest navigable point on the Hudson. The distance was only eighteen miles, but the badness of the roads, and the difficulty of getting draught horses or cattle, caused great impediments and delay in the transportation. He had thus been able to get over but twelve batteaux by the fifteenth of August. His purpose

<sup>1</sup> III. Marshall, page 255-6.

was to descend the Hudson as soon as possible, as in that case the American army, to avoid being placed between him and St. Leger, must either risk a general action, retreat before him, or cross the Hudson into New England.<sup>1</sup> In either event, the whole Mohawk country would be open to the united forces of himself and St. Leger. But there was a difficulty in obtaining an adequate supply of provisions from Fort George, which, by the growing distance of transportation, and the annoyances from hostile militia, was constantly increasing. He therefore decided to get possession of the American deposits of provisions and stores at Bennington. Lieutenant-colonel Baum, with five hundred men, was accordingly despatched on that service. But while waiting for the reinforcement he was found to require, he was vigorously attacked by General Stark, and nearly the whole party was killed or taken prisoners. Then Colonel Brehman, who was coming to his aid, was attacked and defeated with the loss of his artillery and baggage.

St. Leger, now abandoning the siege of Fort Schuyler, returned to Montreal, and thence proceeded to Ticonderoga, with the intention of joining Burgoyne.

These successes of the Americans, besides relieving the whole Mohawk country from the enemy, had a very inspiring effect on their countrymen, especially the militia; and converted the wavering, then a numerous body, into declared and zealous adherents. The occasional barbarities of the Indians rendered more benefit to the American cause by the resentment they excited than to the British by the terror they inspired.

While Schuyler and St. Clair were before a court of inquiry, Gates, who had left Canada for Philadelphia, was again appointed to the chief command.

<sup>1</sup> III. Marshall, page 264.

Foiled in obtaining supplies from Bennington, Burgoyne was forced again to rely upon Fort George, and determining to bring on a general engagement, he crossed the Hudson, and encamped at Behmus's Heights, near Stillwater. He then attacked Gates. The contest was severe, and continued till dark, when the Americans retired to their camp, and the British lay on their arms, within half a mile from the field. The Americans lost between three and four hundred; the British, more than five hundred. As Burgoyne had failed in his object, the result had all the effect of a victory to the Americans. It increased their confidence, and by the consequent increase of their numbers, it had doubly augmented their strength. Each army retained its position till the seventh of October — Burgoyne waiting for a reinforcement from Sir Henry Clinton, and Gates for further accessions to his army; when Burgoyne, whose provisions were greatly reduced, decided once more on a trial of strength in the field, as indispensable to his safety. In the engagement that followed, the Americans were more successful than in the previous action. They carried by storm the works occupied by the German reserve, took several pieces of artillery, and made upwards of two hundred prisoners. In the night Burgoyne found it prudent to withdraw his force to a strong position on the river. Gates, relying on the advantage he held, would not put it to hazard by attacking Burgoyne, in his advantageous position, but bent all his efforts to prevent the retreat of his adversary. A strong detachment was accordingly posted higher up the Hudson, and formidable corps on the opposite sides of the river. Burgoyne therefore retreated in the night to Saratoga, destroying the houses and property of the inhabitants on his march. He was there con-



fronted with a strong force ready to dispute his passage across the river.

The British army, now almost completely surrounded by a superior force, had provisions sufficient for only three days. Burgoyne at first proposed to make a rapid retreat in the night up the Hudson, and then cross it at Fort Edward. But finding the ford there strongly guarded, this plan was abandoned as hopeless, and after a short negotiation, he agreed to a surrender. The conditions were, that his troops should not serve again during the war, and were not to be detained in captivity.

Gates's army consisted of nine thousand and ninety-three continental troops, and four thousand one hundred and twenty-nine militia. The sick exceeded two thousand men. The whole number surrendered was five thousand seven hundred and fifty-two. This army, when it left Saratoga, was estimated to number nine thousand men.

This event excited the liveliest pride and joy throughout America, and many regarded it as decisive of the contest. The thanks of Congress and a medal of gold were voted to Gates.

After General Washington heard of the capture of Burgoyne, he despatched Colonel Hamilton with orders to Gates to send him all the force that he could spare; but he found that a large part of the Northern army had joined General Putnam near New York, and that Gates had retained four brigades at Albany, to continue there until he undertook an expedition against Ticonderoga. Hamilton proceeded to Albany, to remonstrate against retaining so large a division of the army where it was not immediately wanted. He with some difficulty obtained two of the brigades, and finally a third; but

these reinforcements did not arrive on the Delaware until Philadelphia had fallen.

Meanwhile Howe meditated an attack on Washington for the purpose of driving him from his present position to the west of the mountains. With this view, Howe marched out of Philadelphia on the fourth of December, and finally took post about a mile from the American left. A partial action ensued; but the day was spent in the manoeuvres by which each party sought to obtain some advantage. The next day the enemy filed off and retreated to Philadelphia. This was the first occasion in which the Americans were not inferior in numbers. The British had twelve thousand men. The Americans had twelve thousand one hundred and sixty-one. With this equality of numbers, neither could leave the advantageous position it occupied to attack its adversary. This fact showed how much the American troops had been improved by discipline and experience, when General Howe, with equal numbers, far better appointed, was unwilling to venture on an engagement, unless he had the advantage of position.

A commanding situation at Valley Forge was selected for Washington's winter quarters; and there huts were built to supply the place of tents. It was soon found that the army was without provisions. The Commissary department had never been well served for want of men of experience; and Congress increased the evil, by taking from the head of the department the power of appointing and removing its subordinate officers, choosing to exercise that power itself. Thus restricted, the Commissary-general refused to continue in office. The mischiefs of this system were strongly and clearly pointed out to Congress by the Commander-in-chief. In this state of things, he ordered provisions to be seized, receipts, how-

ever being given for them; and by their forcible impressment the army for some time obtained subsistence. This was well calculated to increase the disaffection of the surrounding country, already very great, by its contrast with the British, who paid for their supplies with gold. The power given to the General to obtain supplies in this summary and violent mode was exercised by him with great forbearance. But while it was deeply felt and resented by most of those on whom it acted, others accused him of undue lenity, with that inconsistency of reproach which the unsuccessful are sure to encounter; and he was urged by Congress to execute his powers for this object with greater strictness. Against this course he strongly remonstrated, apparently, however, without effect.

But of all the adverse circumstances which then assailed the Commander-in-chief, the most serious was that he was threatened with a loss of some of that public favor and confidence which had hitherto constituted his pride as well as his strength. His achievements at Trenton and Princeton seemed to be already forgotten in his recent defeats at Brandywine and Germantown. The dissatisfaction was the greater from the glory which Gates had lately acquired in the North, where, it was said, he had given so signal a proof of his military talents; and Washington had failed not only in the field, but in defending Philadelphia and Fort Mifflin. Some began to think that Gates was better qualified to be the Commander-in-chief. It was impossible that such large powers as had been intrusted to General Washington should be so exercised, as not, sometimes, to create disappointment, and a sense of ill treatment; and all who held such sentiments would readily lend themselves to repeat and swell the first note of censure they heard.



Gates gave indications that these sentiments were not unknown or unwelcome to him. He had violated military propriety, in not communicating to the Commander-in-chief the capture of Burgoyne. He had also carried on a correspondence with General Conway, born, like himself, in the mother country, when Conway expressed decided contempt for Washington; and on Gates being charged with the receipt of such a letter, he had demanded the name of the informer in no very friendly terms, and made the inquiry through Congress. General Washington replied to this letter with moderation, firmness, and dignity. It seems that a small party, composed of a few members of Congress, General Conway and General Gates, with some citizens of Philadelphia, had formed a cabal to undermine Washington, and to advance Gates. Among other unworthy acts they had written anonymous letters to injure Washington's reputation. Two of these letters, sent to Patrick Henry, Governor of Virginia, and Governor Laurens, of South Carolina, were transmitted to him by those gentlemen, indignant at the attempts of the authors.

When these facts were known, it was found that the confidence of the people, of the army, even of that portion of it which was commanded by Gates, was unshaken, and the authors either screened themselves from public condemnation by concealment, or made reparation for their error.<sup>1</sup> Candid men saw that if Washington had not been successful in the field, he had always fought at a disadvantage, with raw troops, at once inexperienced, ill armed, and sometimes inferior to the enemy in numbers: that he pointed out the evils he labored under, and

<sup>1</sup> Gates wrote a letter of disclaimer — Conway one of contrition, and asking forgiveness — Mifflin, too, seemed at last to have made atonement.

the remedy: that the benefit of his advice was perceived as soon as it was followed: that if he had not, with such insufficient means, been able to obtain victory, he had done the next best thing, prevented defeat when the danger was most imminent: and that, by reason of his judicious and untiring efforts, he had finally made the troops of his country a match for the well-appointed army of European veterans.

During the extreme suffering of the army for want of supplies, Washington wrote to Congress: "I am now convinced, beyond doubt, that unless some great and capital change suddenly takes place in that line, this army must be reduced to one or other of three things, to starve, dissolve, or disperse in order to obtain subsistence." The distress for clothes was very great. In the return made on the twenty-fifth of December, two thousand eight hundred and ninety-eight men were reported unfit for duty because they were barefoot. The want of blankets was equally great. The whole army then was eight thousand two hundred fit for service.

In consequence of the forcible representation of the Commander-in-chief, Congress sent a deputation of their own to repair to the army, and to report its condition to Congress.

By the convention at Saratoga the troops under General Burgoyne were to embark for England at Boston, and it being very difficult in the winter season for a sufficient number of vessels to reach that port, General Burgoyne applied to have that article of the convention changed; but on a reference to Congress, they were unwilling thus gratuitously to hasten the return of the British troops, and they refused to make any change in the articles of the convention.

As it was stipulated that the troops were not to serve

again during the war, to detect and punish any breach of faith, a minute description of each officer and private was required to be taken. When the troops arrived in Boston, Burgoyne complained that the quarters assigned to them were not such as had been stipulated, and it was apprehended by Congress that this allegation was intended as the foundation of a future plea that the convention which had been violated by one party, was void as to the other. This suspicion was strengthened by the fact that Burgoyne threw difficulties in the way of the descriptive list of his troops, and by some other circumstances. It was also said that some cartouch-boxes, supposed to be comprehended under the word arms, had not been given up.<sup>1</sup>

Congress therefore resolved that the convention had not been strictly complied with on the part of the British army: that the refusal to give descriptive lists was fitted to excite alarm, as it could be objectionable only on the supposition that they meant to violate the terms of the convention; and that the charge urged by General Burgoyne, of a breach of faith, was unwarranted, and justified the fear that he wished for a pretext to relieve himself from its obligations; and that, therefore, the embarkation of General Burgoyne and his troops be suspended until a ratification of the convention was notified by Great Britain to Congress.

To this course Congress adhered, notwithstanding the

<sup>1</sup> It appears from the report of a committee of Congress, in December, 1777, that there were also many muskets, bayonets, and other accoutrements, besides the military chests, which were not delivered up according to the terms of the convention at Saratoga; but General Gates, in answer to the inquiries of the committee, gives explanations as to nearly all of the missing articles; and acquits General Burgoyne and his officers of all privity to the destruction of the military stores, after the convention.



remonstrance of General Burgoyne; but they finally granted him permission to depart.

The entire abortion of Burgoyne's expedition, from which so much had been expected, induced the British ministry to make another attempt at conciliation. In February, 1778, Lord North proposed two bills to this end. By the first, Parliament declared that it would impose no tax payable within any of the colonies of America, except such as might be required for the purposes of commerce, the net produce of which should be applied to the exclusive use of the colonies. The second authorised the appointment of Commissioners by the Crown, with power to treat with the constituted authorities, and even individuals, in America; but such agreements were first to receive the confirmation of Parliament. These Commissioners to have power to proclaim a cessation of hostilities, suspend the non-intercourse laws, as well as all acts of Parliament passed since the sixteenth of February, 1763; and to grant pardons. As the British ministry had heard that a treaty between France and the United States was signed, those bills, before they had actually passed, were sent off to America, to be laid before Congress. They were transmitted to that body through the Commander-in-chief.

In the letter which inclosed those bills, General Washington expressed doubts of their genuineness, and spoke of them as base and insidious. They were referred to a committee of three, who reported that the bills were intended to operate on the hopes and fears of the American people, and to produce a division among them at the time when their affairs were tending to a favorable issue. That those who made any partial convention or agreement with the Commissioners of Great Britain would be regarded as enemies; and that the United States could

hold no conference with such Commissioners until the British government first withdrew its fleets and armies, or acknowledged the independence of the United States. Those States were therefore invited to redouble their exertions. The resolutions recommended by the committee were adopted and published.

This rejection of terms which they not long before would have cordially welcomed, was no doubt caused by the confident expectation they then had of the support and alliance of France; and accordingly the news of that alliance soon after reached them, and diffused a general joy throughout the land.

When the disturbances first broke out, though the French naturally beheld with pleasure what might diminish the wealth and power of a formidable rival, who had some twenty years before wrested from France her fairest colonial possessions; yet doubtful whether this dispute, like those which preceded it, would not be finally accommodated; and already experiencing fiscal difficulties from the reckless extravagance and expensive wars that her monarchs had been engaged in, she was unwilling to commit herself to any course towards the revolted colonies which would involve her in a war with England. Her ablest ministers even undertook to show that France was interested in the subjugation of the colonies, provided the pacification between them and the mother country was not immediate. All that she could do then was to grant aid to the Americans through the medium of individual liberality; and this was done by the agency of Baron de Beaumarchais, who was in high favor at Court by his wit and success as a dramatic writer, and who had the requisite qualifications for managing a business that assumed the character and required the secrecy of a Court intrigue. Liberal aid

was thus procured in money and in military stores, drawn, it is said, from the royal magazines.

There was, moreover, a party about the Court who thought the present a favorable opportunity of humbling the ancient rival of France, by effecting the independence of her valuable possessions in America.

Silas Deane, of Connecticut, had been sent to France in 1776, to procure aid to the colonies. He had succeeded in obtaining military stores sufficient to load three vessels, but the order granting them permission to depart was for a time suspended. Even after independence was declared, France still pursued the same cautious policy, and refused to give open assistance, or even to acknowledge the States.

The ministers first appointed by the United States to negotiate a treaty with France were Dr. Franklin, Mr. Deane, and Mr. Jefferson, the last of whom having declined the appointment, Mr. Arthur Lee, then in London, was put in his place. After the arrival of these envoys in Paris, the ministry still kept up appearances of taking no part in the quarrel, and were occasionally active in preventing or punishing deviations from neutrality; and they privately urged to the envoys that they should more effectually serve the American cause by their forbearance than by open and direct aid.

Though the French government was thus cautious of embroiling itself with that of Great Britain, the leading persons about the Court, both male and female, soon manifested a lively interest in the cause of the Americans; and besides liberal contributions in money to purchase arms and ammunition, many offered their services in the field; and at length the number of those who procured recommendations from the American Commissioners was so great as to prove quite embarrassing to Congress,



and also to become objects of jealousy to the American officers.

Among these generous volunteers, the Marquis de La Fayette stood conspicuous. He was scarcely more than twenty years of age, had recently married, was rich and well received at Court; and when the fortunes of the revolted States appeared to be at the lowest point of depression, and Washington lost battle after battle, and found his only safety in retreat, was the moment La Fayette chose to enter their service, and did so on express stipulation that he should join the army as a volunteer, and should receive no pay.

Congress, not to be behind him in generosity, by a resolution of July, 1777, in which they expressed their sense of his sacrifices and of his support, made him a Major-general in Washington's army. He thenceforth contracted an enthusiastic admiration, which he cherished through life, for the American Commander.

After the States had shown, by their successes at Trenton and Princeton; by their ability to meet British veterans in the field, with equal numbers; and above all, by the capture of the whole army of Burgoyne, that they were likely to maintain their new sovereignty, France thought that she should no longer delay securing to herself the credit and benefit she must gain by completing the dismemberment of the British empire. A treaty was then formed, on liberal terms, in which it was stipulated that neither party should conclude either truce or peace without the consent of the other first obtained, and that they would not lay down their arms till the Independence of the United States should be assured by the treaties that terminated the war. They entered also into mutual guarantees — the United States, of the possessions of France in America, and France, of the entire

sovereignty and independence of the United States. The first guarantee not to have effect until a war should break out between France and England.

News of this treaty was received by Congress on the second of May, 1778, and it was ratified in that body by an unanimous vote.

On the fifteenth of November the articles of Confederation were adopted by Congress, and sent to the several States for their ratification. It was, however, not until the year 1781 that this instrument was ratified by all the thirteen States.

It consisted of thirteen articles, according to which the States enter into a perpetual league for their common defence, their liberties, and general welfare. To effect these objects, the free inhabitants in every State are entitled to the privileges and immunities of free citizens in all the States, and subject to no general restrictions in commerce. But fugitives from justice shall, on demand of the governor, be delivered up.

No State shall be represented in Congress by less than two, nor more than seven representatives; and no member shall hold his place more than three years out of six.

To Congress the powers are exclusively given of making war, of raising armies and navies, of appointing their officers, except in the army of the rank of colonel, of making treaties, sending and receiving ambassadors, of settling controversies between the States by a special tribunal; of coining money, regulating weights and measures, borrowing money, issuing bills of credit, regulating trade with Indians, and post-offices: but to exercise the most important of these powers, the concurrence of nine States is required. The money required for war, and to defray the expenses of the Confederation,

to be raised by the States in proportion to the value of their lands respectively.

After Washington went into winter quarters at Valley Forge, nothing took place between the hostile armies during the winter and early spring, except endeavors to intercept each other's supplies of provisions, and small skirmishes with foraging parties.

In May, General Howe resigned his command of the army, which he transferred to Sir Henry Clinton, and proposed to return to England. A few days before his departure, the field-officers of his army expressed their sense of his amiable virtues by a costly festival, which, from the variety of its entertainments—including the novel spectacle of a tournament—they called the *mischianza*. Whatsoever taste or approaches to magnificence it might have displayed, it reflected no honor on its authors either as soldiers or Englishmen. While, by these frivolous amusements, they won the admiration and smiles of the ladies of Philadelphia—the vain and pretentious, as well as the polished and refined—they rather lowered than raised themselves in the esteem of the great body of American loyalists, and provoked the strictures of their own countrymen.

This expiring effort of British gallantry in Philadelphia long afforded copious topics for gratified vanity, for patriotic rebuke, and for ill-founded scandal.

The reputation of General Howe, beloved as he was by the whole army, was not elevated by his campaigns in America, and there was one occasion on which it was believed by many that greater vigor and decision on his part would have been destructive to the American army.

Orders were soon afterwards given for the evacuation of Philadelphia.

Washington was, for some time, uncertain whether it



was the purpose of the British to go to the South, to embark the whole army for New York, or march to the same point through the Jerseys. The latter he thought the most probable. On a consultation with the officers, while they all agreed that there should be no attempt to cut off the rear of the enemy when they were on their march, they differed as to the further course to be pursued. Lee was of opinion that neither a general nor partial engagement should be risked, when the forces of the two armies were so nearly equal, and when the Americans were about to be strengthened by a foreign alliance. Other officers were of the same opinion. Of seventeen generals, only Wayne and Cadwalader were in favor of attacking the British.

The British army left Philadelphia on the eighteenth of May. Their march was so slow, as to favor the opinion that Clinton wished for an engagement, which, by the decision of the American council of war, was to be avoided. Washington accordingly kept possession of the high grounds, so that he might choose whether he would hazard an action or not, and afford protection to the passes in the highlands of New York, if it should be the object of the enemy to possess them.

On the twenty-fourth of June, Sir Henry Clinton was encamped at Allentown. Washington, who was strongly inclined to attack the enemy, notwithstanding the advice of his officers to the contrary, again consulted them. His army, according to the returns a few days before, amounted to ten thousand six hundred and eighty-four effective rank and file. The force of the enemy was supposed to be less than ten thousand. The opinion of all, except Wayne, was against an attack; though they then thought that a strong detachment should hover on the left flank of the enemy, and act according to circum-

stances. Washington, however, finding himself supported by the private wishes of some officers in whom he had confidence, decided on effective measures. Lee and La Fayette, who commanded the front division, were to attack the rear of the enemy and bring on the action. Lee was ordered to begin the action as soon as the enemy began their march from the high ground they occupied. He prepared to execute the order next morning, but having reason to believe that the enemy were in greater force than had been supposed, he determined first to reconnoitre for himself.

Sir Henry Clinton, judging that an attempt was to be made to cut off his baggage, marched back his rear division to protect it. He then met Lee, who, finding he had underrated the enemy's force, deemed it prudent not to engage in his then position, as he had a morass on his rear, but to retreat to his former position, and the rather as General Scott had, under a mistake, drawn off his troops to the rear. In this retreat some skirmishing ensued, as the enemy pressed on Lee. Washington, not knowing of Lee's motives, met him retreating about noon, without having made any attack, or even an effort to maintain his ground; and in warm terms expressed disapprobation of his conduct, and ordered him to endeavor to stop the British columns. These orders were well executed by Lee, and though finally obliged to give way, he retreated in good order. This action took place near Monmouth Court-house.

During this check of the enemy, the rest of the American army came up and put a stop to the further advance of the British, who thereupon attacked first the left, and then the right of the American army, but were, in both cases, repulsed; and a body of infantry under Wayne coming up, they gave way, and retreated to the position

they had first occupied behind a ravine. Washington was preparing to attack them in the strong position they occupied, and had actually commenced it, when night compelled the Americans to postpone their operations till the next day. But about midnight the British silently retreated, and reached the high grounds about Middletown, where they could not be safely assailed.

Both parties claimed the victory. The advantage was with the English in the first part of the action; but with the Americans in the last, the latter remaining on the field, and sustaining the smallest loss. The British admitted their killed to be one hundred and eighty-eight, and the wounded one hundred and fifty-four — though near three hundred were buried on the ground. The Americans numbered two hundred and thirty in killed and wounded. The British army lost near a thousand from desertion — most of them foreigners.

Lee wrote to Washington an offensive letter, asking reparation for the injury done him. He was told, in reply, that he should soon have an opportunity of justifying himself, or of affording proof that he had not been guilty of disobedience of orders, and misbehavior before the enemy.

On Lee's expressing a wish for a speedy investigation, he was the same day arrested and charged with: first, disobedience of orders; secondly, for making an unnecessary, disorderly, and shameful retreat; thirdly, for disrespect to the Commander-in-chief, in two letters.

There was, at the time, a strong feeling in the army unfavorable to him, and his course was attributed to a wish to injure the reputation of Washington, and to advance his own. The court-martial found him guilty on all three of the charges, except that the word "shameful" was omitted in the second charge; and he was sen-



tenced to be suspended for one year. The sentence was almost unanimously approved by Congress.

Washington then proceeded to the Hudson River, and Clinton to Sandy Hook, whence his army passed over to New York.

The French fleet, under Count d'Estaing, which had left Toulon on the thirteenth of April, had the unusual passage of eighty-seven days. Had they reached the Delaware a fortnight earlier, they would probably have captured the whole British fleet, and consequently the army, as their fleet was much larger than the British. It consisted of twelve ships-of-the-line and six frigates, besides four thousand land forces. Finding that the British fleet had escaped, after announcing his arrival to Congress, d'Estaing proceeded to the coast of New York.

General Washington marched his army to the White Plains, whence he might co-operate with the French Admiral, according to circumstances.

On a consultation between the Commanders of the American and French forces, it was doubtful whether there was water sufficient for the largest French ships to enter the harbor of New York, on which the meditated attack on the British fleet was abandoned; and the Admiral decided on proceeding to Rhode Island, to attack the fleet there, and to aim to drive the British from that place. Lord Howe's force consisted of six ships-of-the-line, and four of fifty guns, with some frigates and smaller vessels.

D'Estaing's fleet appeared off Newport on the twenty-fifth of July. The British troops there, lately reinforced, amounted to six thousand men.

General Sullivan, who commanded the American army in Rhode Island, was posted near Providence. He had

some time before applied to the States for bodies of militia, but with the delays incident to such requisitions, the levies were not made when they could have had the benefit of the French superiority at sea, and before the British had time to strengthen their fortifications.

At length the joint attack of the Americans and French was decided on, and the British General Pigot, on being satisfied of the fact, ordered the troops stationed at the north end of the Island to proceed to Newport. Sullivan immediately decided to take possession of the works the enemy had abandoned. His whole army therefore crossed the east passage and landed.

D'Estaing resented the indelicacy in Sullivan's landing before the French, and without consulting him.<sup>1</sup> There was some other difficulty on points of etiquette, as Count d'Estaing was a Lieutenant-general in France, and Sullivan only a Major-general; to adjust which difficulty it had been arranged that the descent on the Island should be made by the French and Americans at the same time; but that one thousand men of the Americans were to be attached to the French, and to land with them. When, then, this arrangement was departed from without previous notice to the Count, it excited his suspicions and complaints, and he refused to answer Sullivan's letter of explanation.

D'Estaing's fastidiousness on points of etiquette, and his refusal to aid in what would have given so serious a blow to the British power in America, is calculated to raise a doubt whether he was really anxious to bring the war to an immediate conclusion.

At this time a British fleet appeared in sight. This fleet, originally consisting of twelve ships-of-the-line under Lord Byron, had followed the French fleet; but

<sup>1</sup> VI. Marshall, page 495.

they had suffered so much by stormy adverse weather, that, besides being greatly injured, they had been separated and dispersed, so that only a part of them had then reached Rhode Island; and though the united fleets were inferior to the French, Lord Howe was determined to attempt the relief of Newport.

He accordingly left New York for Newport on the tenth of August, and the day after his arrival Count d'Estaing put to sea to give battle to the enemy. Howe also weighed anchor, and attempted, when at sea, to get the weather-gage.

Sullivan's army, strongly reinforced by militia, then amounted to ten thousand men, but to spare d'Estaing's feelings, La Fayette wished the attack to be postponed till the Count's return; as, however, it was deemed impracticable to keep the militia long in the field, it was decided to commence their operations without further delay.

The two fleets, vainly striving to get the weather-gage, were separated by a severe storm without fighting; and the French ships were so injured, that d'Estaing carried them to Boston to refit, against the entreaties of Sullivan, and the protest of his officers. The British had, in the mean time, been so reinforced, that they outnumbered the besieging army—reduced as it soon was by desertion—and Sullivan reluctantly consented to raise the siege. The next day—the twentieth of August—Sullivan's retreating force was pursued by the enemy. An action ensued, in which the British were forced to retreat. Sullivan lost two hundred men; the enemy a greater number.

Learning that four thousand men, commanded by Clinton, were on their way from New York to Newport, Sullivan at once evacuated the Island of Newport, and



passed over to the continent. Had he postponed his retreat a single day, he must have been captured. His conduct obtained the approbation and thanks of Congress.

Count d'Estaing, offended with an expression in General Sullivan's orders, complained of it to Congress, as well as of disappointment and want of supplies.

The possession of Rhode Island by the British had long been a source of mortification to the people of New England, and they were proportionally disappointed that so fair an opportunity of expelling the British, and perhaps of capturing them, had been lost. The popular feeling against the conduct of their new allies was so strong, that it was apprehended it would interfere with the refitting of the French ships in Boston. In this state of the popular mind, when all the former national prejudices between the French and English colonies seemed to be revived, a riot broke out between the American and French sailors; and it required all the efforts of Hancock and La Fayette to prevent further mischief. General Washington also exerted himself to the same end. Having written to Sullivan on the importance of restoring harmony with the French, he also wrote a soothing letter to d'Estaing, and receiving from him a full account of the whole misunderstanding, he gave so satisfactory an answer to the Count, that a perfect reconciliation was effected.

While the French ships were undergoing repairs in Boston, the British fleet had been so reinforced, as to be superior to the French. Finding that the latter could not be safely attacked in that harbor, the British engaged in some marauding expeditions, by which two or three small towns in Connecticut were burnt.

The British army then, in two columns of five thou-

sand men each, ascended on both sides of the Hudson, and surprised part of a regiment under Colonel Baylor. In this affair they were charged with unnecessary cruelty; as, of one hundred and four privates, sixty-seven were killed, wounded and taken. The number of victims would have been greater, but for the humanity of one of General Grey's captains, who refused to execute the bloody orders he had received. A few days later Colonel Butler surprised a party of British under Captain Donop, and, without the loss of a man, killed ten, and took the commanding officer and eighteen yagers prisoners.

The British having returned to New York, they sent an expedition against Little Egg Harbor, in Jersey, which was entirely successful. They also surprised Count Pulaski, who was there stationed with a legion he had succeeded in raising. The infantry were put to the bayonet, but the cavalry made their escape.

In these marauding expeditions, which, in a national contest, are inglorious and contemptible, as much mischief to private property was done as possible, which seemed to show that a spirit of vengeance had now taken the place of the hope of recovering the colonies.

On the third of November, d'Estaing sailed for the West Indies, and thus ended his costly and fruitless expedition, which bade fair to be decisive of the contest; and which failed, first by disasters from the elements, and then from misunderstandings in which the interests of the common cause seem to have been sacrificed to paltry personal feelings on both sides.

After the French fleet sailed for the West Indies, a part of the British forces was also sent thither, and another portion, under the command of Lieutenant-colonel Campbell, was intended to act against Georgia

and South Carolina. The squadron which conveyed it was commanded by Commodore Hyde Parker.

The American army then went into winter quarters in Connecticut, and on both sides the Hudson near West Point; and being now better clothed by the supplies received from France, their situation was, for the first time, comparatively comfortable.

The proceedings of the Commissioners from England, with the last attempt at conciliation by Lord North, may form an episode, which deserves our notice as showing the alteration which had taken place in the sentiments and situation of Great Britain and her former colonies in the course of three years.

These Commissioners were the Earl of Carlisle, William Eden, brother to the late Governor of Maryland, and Governor Johnstone, formerly of New York. Notwithstanding the answer given by Congress when the proposed bills before Parliament were communicated to them, the ministers were induced to renew their efforts after those bills were passed.

Their propositions were to restore a free and friendly intercourse between the two countries, and to extend the freedom of trade as far as their interests required. That no military forces should be kept up in North America without the consent of Congress, or the particular Assemblies. To concur in measures calculated to discharge the debts of America, and to raise the value of the paper currency. To perpetuate the Union by a reciprocal deputation of an agent or agents, who should have a seat and voice in Parliament; and those sent from Great Britain, a seat and voice in the colonial Legislatures; so that the Legislature of each colony should have full powers of legislation and government, and exercise every privilege short of a total separation of interests.



There being, in the letter of the Commissioners, some expressions of an offensive character against France, the further reading was on that account objected to, and, after a warm debate, Congress adjourned. The next day they decided on reading the letter, and in their answer declared that nothing but their desire of peace could induce them to read a paper containing expressions disrespectful to the King of France, their great and good ally.

They say that the acts of the British Parliament, and the letter from the Commissioners, supposed the people of the United States still to be subjects, which was inadmissible. That under their great desire for peace they would be ready to enter into a treaty not inconsistent with existing treaties, on Great Britain acknowledging their independence, or withdrawing her fleets and armies.

Governor Johnstone at this time wrote letters to several members of Congress, in which he mingled with many flattering compliments assurances of the honors and emoluments that would reward those who restored harmony between the two countries.

In a second letter from the Commissioners they say, that as to the two preliminary alternatives mentioned by Congress, they consider the independence of the people of America on Great Britain, except so far as was necessary for preserving that union of force, essential to the safety of both, to have been acknowledged in their first letter; and they were willing to discuss those circumstances that might insure, or even enlarge that independence.

They excuse their not beginning with the other alternative, on account of the precautions required against their ancient enemies, and a regard to the safety of the

loyalists; but it was intimated that this measure might soon follow the first advances to a peace. As to the existing treaties referred to, they say that they should be furnished with copies, both for their consideration, and that of the constituents of Congress, who could judge whether such treaties furnished sufficient reasons for continuing this unnatural war. They also suggested a doubt about the power of Congress to contract foreign alliances, as the articles of Confederation were not yet in force; and they indicated a hope that, from the respect they entertained for the American people, the proceedings of the Commissioners would be communicated to them.

It seems clear that as Congress had rejected the pacific overtures first made by Great Britain before they knew of the treaty with France, the Commissioners could not suppose that their proposals would be favorably heard by the United States, now that those States had received aid so decisive: and that the communications of the Commissioners were, doubtless, intended for the people; in the hope that when every thing for which they professed to have taken up arms was conceded by Great Britain, they would put an end to a war, the pressure of which they so severely felt.

Congress passed a resolution, that as neither of the alternatives they had proposed had been complied with, no further answer should be given to the Commissioners. They then required that all letters of a public nature from any British subject to any of the members should be laid before them. The letters from Mr. Johnstone were then produced, and some time afterwards Mr. Reed<sup>1</sup>

<sup>1</sup> This gentleman acquired no small credit with his countrymen for the answer he made to these attempts by Johnstone, to gain him over to the British cause, "That he was not worth purchasing, but such as he was, the King of England was not rich enough to buy him." He

stated that an offer had been made to him by a third person, of a large sum of money and of office, to use his influence in restoring harmony between the two countries. These facts were then published to the people. Congress, subsequently referring to these offers, expressed their opinion that these were direct attempts to bribe that body, and that they could not, consistently with their honor, hold any correspondence with George Johnstone. They also attempted to involve the Commissioners in these acts.

On receiving this communication Johnstone withdrew himself from the Commission; and his associates denied all knowledge of the facts adverted to. This last paper, like the others from the Commissioners, was evidently framed with a view of making an impression on the American people.

As a last effort, the Commissioners then published a solemn manifesto, addressed to the inhabitants of the colonies, in which they recited the steps they had taken, and the refusal of Congress to have any conference with them; and appealed to every motive which was likely to have influence with the American people. They at the same time offered pardon to all who had been guilty of rebellious practices—not forgetting threats towards recusants. They sent a copy to each State, and dispersed other copies as extensively as they could.

Congress declared the course of the Commissioners to be contrary to the law of nations. They recommended to the State Executives to secure in close custody every person employed in circulating those manifestoes; but, at the same time, they published it in American papers.

had previously suffered in the estimation of some, from having, in a private correspondence with General Lee, detracted from Washington's military qualifications. — See IV. Sparks's Washington, page 535.



They also issued a counter-manifesto, declaring that if their enemies ventured to execute their threats, retaliation would immediately follow. Thus terminated offers which, three or four years before, would have been received with gratitude and joy by those who now rejected them with disdain: so much had the cause of independence apparently advanced in the interval.

In the month of July, Monsieur Gerard, the French minister, had a public reception in Congress, at which the chief functionaries of Pennsylvania were invited to attend.

In the latter part of this year the Western portions of Pennsylvania and Virginia suffered much from the incursions of the Indians. The settlement of Wyoming, in Pennsylvania, was assailed in July by a large body of savages, who, having obtained easy possession of it, indiscriminately butchered both the garrison and the inhabitants; and soon afterwards Wilkesbarré shared the same fate. Near three thousand persons had succeeded in effecting their escape. To prevent their return to the scenes of their former happiness, every thing that could contribute to their comfort — houses, crops, animals — were, with an industry equal to their malignity, destroyed by the savages.

Commissioners were sent by Congress to Pittsburg, to investigate the subject of Indian hostilities; and they having reported that the savages had been stimulated by Hamilton, the Governor of Detroit, Congress decided on sending an expedition against that post: but this purpose was anticipated by George Rogers Clarke, of Virginia, when the Legislature of that State established the County of Illinois. They then authorised Colonel Clarke to raise a regiment of infantry, with a corps of cavalry.

Clarke having learnt that Hamilton had sent a large part of his force to block up the Ohio, while he remained at Vincennes, set out immediately for that post, and, after a most arduous and difficult march through lands covered with water, surprised Hamilton, who surrendered, with his garrison, prisoners of war. As he was believed to have instigated the Indians in their barbarities, he was, by way of retaliation, treated with unusual rigor. This exploit entirely broke up the schemes of the Indians on the frontier.

It had always been a favorite object in Congress to obtain the accession of Canada, either by her voluntary act, or by conquest; and this year the scheme of an invasion was revived, as it would have the co-operation of France. The plan was completely formed, and was to be carried into execution in the following year; but to Washington there seemed to be insuperable objections to it, both from the serious difficulties of the enterprise, and the dangers that would attend it, if those difficulties were overcome. His reasons finally prevailed, and the project was, not without reluctance, given up.

If the alliance with France was productive of solid advantages to the cause of independence, like all other human concerns, its benefits were not without alloy. One of the evils resulting was, that in the confidence of success which it inspired, both the States and Congress were disposed to relax in their efforts at defence, and were prevented from taking measures to keep up the army to the degree of strength required.

It is not unlikely that the sense of security that was thus produced contributed to increase the dissensions in Congress which had for some time existed, and which now manifested a force and bitterness they had never before exhibited. One of the sources of this discord was

the case of Silas Deane, whose course in France had long given dissatisfaction to many of the members. He had been considered not only reckless in his promises to French officers of appointments in the American army beyond their just claims, which had proved a source of much embarrassment in the United States — but his own accounts of his pecuniary transactions were defective and unsatisfactory. Deane himself, moreover, publicly censured not only some of the American negotiators abroad, but also members of Congress. A letter from Mr. Laurens, when President of Congress, to Governor Houston, of Georgia, in like manner reflected with severity on the want of integrity and patriotism in some of the members of that body. It is not easy, at the present day, to decide how far these injurious imputations were well founded.

The British ministry, finding themselves foiled in their attempts to reduce the Northern and Middle States to subjection, determined to try their strength on the South, which seemed to be less capable of resistance; and their first efforts were directed against Georgia, the most defenceless of those States.

Lieutenant-colonel Campbell arrived in the squadron of Commodore Parker off the coast of Georgia on the twenty-third of December; and he effected, without difficulty, a landing three miles below the town of Savannah. Major-general Howe, who had the command of the American forces, attempted to dispute his further advance; but Campbell succeeded in getting a detachment in Howe's rear; and he, finding himself between two fires, made his retreat with difficulty, and after great loss. One hundred were killed, thirty-eight officers and four hundred and fifteen privates were taken, besides forty-eight pieces of cannon, twenty-three mortars, and a large



amount of military stores. The enemy lost but seven killed, and nineteen wounded.

By this victory all the lower part of the State fell into the possession of the enemy, who treated the inhabitants with great lenity and moderation. A proclamation was issued in the terms likely to serve the royal cause; and the form of the oath required to be taken by the inhabitants was published. This policy was successful, and great numbers of the inhabitants put themselves under the protection of the victors. The post of Sunbury subsequently surrendered to General Prevost. Colonel Campbell then proceeded to Augusta, where he met with no opposition; and thus the whole State of Georgia was brought under British subjection.

At the instance of the Delegates of South Carolina and Georgia, General Howe was recalled, and General Lincoln was sent to take command in the South. As soon as he heard that the enemy was in Savannah River, he marched with all his forces, including two thousand militia from North Carolina, to the defence of Georgia; but after he heard of Howe's defeat, he limited his views to the defence of South Carolina. His whole force was about three thousand six hundred; of whom only two thousand four hundred and twenty-eight were effective.

The Savannah, for one hundred miles from its mouth, flows through a low, marshy country, so as to make it difficult to be crossed; and it sometimes spreads to a breadth of from two to four miles. It thus completely separated the American and British forces.

A detachment of the British, under Major Gardiner, attempted to penetrate South Carolina by the sea-coast, and to take possession of the Island of Port Royal; but they were compelled to retreat by General Moultrie. The militia, on this occasion, exhibited both bravery and

skill; and they would probably have cut off Gardiner's whole party if their ammunition had not failed them. This repulse checked the further operations of Prevost in South Carolina.

The number of loyalists in the western portions of both Carolinas and Georgia was great; and, after the success of the British in Georgia, they were invited to assemble at Augusta. Accordingly, seven hundred of them, in a body, began their march from South Carolina to Augusta; but were attacked by militia under Colonel Pickens, and defeated with great loss. Seventy were then tried as traitors, and five were hanged.

General Lincoln, preparatory to offensive operations in Georgia, which reinforcements now led him to attempt, ordered General Ashe to cross the Savannah into Georgia; but Prevost succeeded in surprising and defeating his corps. Such of them as could not escape were compelled, after a short resistance, to surrender as prisoners of war. Not more than four hundred and fifty of the fugitives could be reassembled. The British lost one officer and fifteen privates. Prevost then established civil government in Georgia.

This disastrous beginning roused the South Carolinians to redouble their efforts. They elected John Rutledge Governor, and invested him and his council with dictatorial powers.

Lincoln, strengthened by the large body of militia called into service, renewed his purpose of recovering the upper part of Georgia; but to divert him from this object, Prevost crossed the Savannah himself, and made a show of attacking Charleston. He advanced rapidly on General Moultrie, and compelled him to retreat. Meanwhile Lincoln crossed the Savannah himself; expecting to draw Prevost back to the defence of

Georgia, and by this movement he did not much increase his distance from Charleston, in case that town should be attacked.

Prevost, encouraged by the feeble resistance he had yet encountered, decided on marching to Charleston, whither Lincoln, recrossing the river, also hastened. The defences of the city had all been made against an attack by sea, while those on the land side had been entirely neglected; and had Prevost marched on without delay, Charleston must have surrendered; but he having halted for some days, the city was well prepared for defence.

The proffered terms of surrender being rejected by Rutledge, Prevost, unwilling to hazard an assault, withdrew his troops first to St. James, and then to St. Johns, Islands, lying south of Charleston, and there awaited the arrival of two frigates from New York.

Lincoln at the same time encamped opposite the Island of St. Johns, which is separated by an inlet called Stono River. The British had a fortified post at the ferry over the Stono, and while they were moving from St. James Island to St. Johns, Lincoln attacked this post, but was repulsed with a loss, in killed and wounded, of twenty-four officers and one hundred and fifty-five privates. The loss of the British was something less. Three days afterwards, the enemy's troops were silently withdrawn, and retired into Georgia.

During these transactions, Virginia was invaded by Brigadier-general Mathews. He had two thousand men under him, and the fleet which transported them entered the Chesapeake on the ninth of May.

A regiment of artillery had been raised in that State to relieve the militia, and to defend it from the predatory incursions of the enemy; but being distributed in small



divisions along the eastern frontier, and separated by wide rivers and inlets, they could not readily unite; nor if united, were they sufficient to resist the present invading force. On the tenth, the fleet entered Elizabeth River, and approaching Fort Nelson, situated on the west side of that river, it was evacuated in the night, and the garrison retreated into the Dismal Swamp. The lower part of the State, south of James River, was thus in possession of the enemy, who, fixing his quarters at Portsmouth, took possession of a large amount of stores collected at Norfolk, Gosport, and other towns, which they brought off or destroyed, and Mathews returned to New York by the last of May.

The western population of New York, Connecticut and Pennsylvania having been greatly harassed by incursions of the Indians, assisted by the Tories who had taken refuge among them, they were clamorous for a force to act on the offensive. Congress decided to comply with their request. The force employed was to be divided into three parts: one to march up the Susquehanna, and attack a tribe of the Six Nations; another to go by the way of the Mohawk; and a third to proceed up the Alleghany River.

When this army was on the point of marching, a new difficulty presented itself. The officers of the Jersey brigade remonstrated, that unless their complaints of want of "pay and support" were immediately attended to, they would disband in three days, and they requested their Legislature, in that event, to appoint other officers. General Washington, on learning these facts, addressed a letter to them of mild but earnest remonstrance, and in the most forcible way appealing both to their pride and their patriotism, he urged them to reconsider the subject, and not to bring disgrace on themselves and their country. They

replied in most respectful language, without, however, relinquishing their purpose; but as they said they would continue with their regiment and do their duty until the Legislature had a reasonable time to appoint others, no further notice of their letter was taken. The Legislature having, in the mean time, given some attention to their complaints, they consented to withdraw their remonstrance, and continued to discharge their duties.

In communicating the facts to Congress, General Washington renewed his solicitations in behalf of the officers of the army generally. Before this expedition set out, Colonel Von Schaick, of New York, with five or six hundred men, surprised and destroyed the settlements of the Onondagas, one of the Six Nations. The great expedition was under the command of General Sullivan, who received instructions to treat the hostile tribes with severity, Congress being convinced that offensive operations would alone avail against them.

At this time the troops under Sir Henry Clinton amounted to sixteen or seventeen thousand men, exclusive of those in the South. The American army numbered rather less. In New England there were three thousand under Gates, and thirteen thousand on both sides of the Hudson. The largest division—seven thousand—was at Middlebrook, under Washington. With this force even defensive warfare was not easy.

After Forts Clinton and Montgomery were destroyed, in 1777, it was thought that West Point was a strong position, and that had been accordingly fortified. Three miles below West Point is a ferry connecting the great road that leads from the Eastern to the Middle States. The ferry is commanded on the west side by the high ground called Stony Point, and on the east side by a piece of flat land called Verplank's Point. The posses-

sion of these points was desirable to both armies. At Verplank's, Washington had erected a strong work called Fort Fayette; but the works on Stony Point were unfinished.

The British having approached Stony Point, the unfinished works were abandoned; and the next day a battery was ready to open on Fort Fayette. As the enemy had entire possession of the river, the post was incapable of defence, and was surrendered to the British. The works in both places were put in a strong state of defence.

Washington being thus incapable of undertaking any offensive operations to advantage, and being himself unassailable while he continued in the strong position he then occupied in the Highlands, Sir Henry Clinton was induced to make an incursion into Connecticut. About two thousand six hundred men were embarked at Frog's Neck, and they reached New Haven on the fifth of July. They took possession of the town, destroyed all the public stores they found, and thence proceeded to Fairfield. Here, however, they met with resistance from the militia, in resentment of which they reduced the village to ashes. They extended the same petty marauding to other places. But their troops were soon withdrawn, to act defensively on the Hudson.

Washington now formed the design of attempting to take Stony Point by surprise—a capture which, besides the intrinsic value of the place, would give eclat to the American arms, and reconcile the public to the defensive warfare to which he had been for some time reduced. The execution of the plan was entrusted to General Wayne. The position is one of great strength. It is surrounded by the river on three sides, and on the fourth by



a marsh, over which there is a single crossing place. It was well provided with heavy ordnance, and several ships-of-war were stationed in the river before it. It had a garrison of six hundred men.

The attack was made in the night. Two columns approached it on the right and left at the same time; and a little after twelve at night, they rushed into the works at the point of the bayonet, without having discharged a gun. Nor was a single life taken after resistance ceased. Of the forlorn hope of one of the columns, led by Lieutenant Gibbon, seventeen were killed or wounded. The British lost in killed, by Wayne's account, sixty-three, and by Colonel Johnson's, only twenty. The prisoners were five hundred and forty-three. A large amount of stores was captured. The killed and wounded of the assailants were about one hundred men.

From mismanagement and misapprehension of orders, the captors did not profit by the possession of Stony Point, in time to get possession also of Verplank's Point, reinforced as it was by the British. The acquisition was, therefore, rendered of no value; and the Americans finding it could not be defended with less than fifteen hundred men, decided to evacuate it.

In July there was a successful expedition from Nova Scotia against Penobscot, in Maine; and an American flotilla, which was provided for its defence, having fled without attempting resistance, was entirely destroyed — one of them a frigate of thirty-two guns. This affair long remained a theme of reproach against those concerned in it.

As a small set-off to this success of the enemy, a British post at Paulus Hook was surprised by Major Henry Lee,

and the garrison made prisoners, with the loss of only two killed and three wounded.

Let us now revert to the affairs in the South.

General Lincoln having informed Count d'Estaing that the British ships had gone into port to repair the damages sustained in the late engagement with his fleet in the West Indies, and that a fair opportunity was presented of destroying the British army in Georgia, with the co-operation of the French fleet, the Count immediately left the West Indies, with twenty-two sail-of-the-line and eleven frigates. He had on board six thousand land forces, and arrived so unexpectedly on the coast, that a British fifty gun ship and three frigates fell into his hands. He then, in conjunction with Lincoln, planned an attack on the town of Savannah.

On the fifteenth of September, a junction took place between Lincoln's troops, amounting to one thousand, and those of the French, amounting to three thousand; and the next day they summoned the garrison to surrender. Prevost managed, by an ambiguous answer, to gain time, so that in the interval Colonel Maitland arrived with a detachment to his assistance, when d'Estaing was informed that the garrison had resolved to defend the place. The siege was then begun: but d'Estaing seeing that the cannonade had made no impression on the works, and unwilling to leave the French West Indies longer without protection, or to expose his own ships to the chance of an equinoxial storm, declared he could not protract his stay, and that they must either raise the siege, or attempt to storm the works. They decided in favor of storming, though the place must have surrendered in a few days by the regular approaches of the besiegers.

The attack was made before day on the ninth of October, in three columns. Though the besieged were prepared for the assault, and their fire was very destructive, the assailants pressed on, and planted the standards of both nations on the walls; but the contest being still obstinately continued, the assailants were brought to a pause, when Count Pulaski received a mortal wound; and Major Glaziers, who commanded the garrison, rushing at the head of a body of grenadiers and marines, drove back the allied troops, who were then ordered to retreat. The French lost seven hundred men; the Americans two hundred and thirty-four. The British garrison lost only fifty-five in killed and wounded. On the sixteenth of October the siege was raised by the Count, who thus, for the third time, failed in his co-operation with the Americans, after the fairest prospects of success. The French troops were re-embarked, and the Americans recrossed the Savannah into South Carolina.

Congress then requested General Washington to order the troops from North Carolina, and such as could be spared from the Northern army, to aid General Lincoln.

General Sullivan, with the largest division of the Western army, reached Wyoming in June; but for want of the requisite supplies of provisions and ammunition, it was the last of July before he could leave it. On the twenty-second of August, being joined by another division, his whole force amounted to five thousand men. With this he penetrated to the heart of the Indian country on the Susquehanna.

The savages, apprised of Sullivan's movements and strength, determined to risk a general action. They had from eight to fifteen hundred Indians, and five companies of whites, of two hundred men each; and they had constructed a breastwork on a rising ground. This work



was attacked, on the twenty-ninth of August, by Sullivan, and while one part of his force guarded the rear, another assailed in front. The Indians fought bravely, retreating from tree to tree, but finding they were likely to be surrounded, they precipitately fled. The victory cost the Americans thirty men, and only eleven Indians were found on the field. The whole country of the Six Nations was then laid waste, according to the severe policy that necessity seemed to dictate. There was no other mode of preventing the repetition of such tragedies as that of Wyoming. A similar course, with similar success, was adopted by Colonel Brodhead against the Mingo, Munsey, and Seneca tribes.

Sullivan obtained the thanks of Congress; but he had given so much dissatisfaction by his censures and complaints, that when, at the close of the campaign, he sent in his resignation on account of ill-health, a motion to request him to continue in the service, and to allow him a temporary retirement, was lost.

In the latter part of this year, Spain decided on joining France in the war, anxious as she was to take the chance of recovering Gibraltar, Jamaica, and the Floridas. She had previously hesitated to take this course, from a dread of the effect this example of the British colonies might have on her own. She first offered her mediation to the belligerents, which France readily accepted, but Great Britain first evaded, and subsequently rejected. Though Spain declared war against Great Britain after her offer of mediation was rejected, she did not acknowledge American Independence.

The minister of France professing himself anxious to effect a treaty between Spain and the United States, suggested the terms of such a treaty. They were: the exclusive navigation of the River Mississippi to Spain; the

retrocession of the Floridas, and the right to the lands on the east of the Mississippi as far as the settlements of the United States. To the two last propositions a majority of Congress was decidedly opposed.

After the failure of the attack on Savannah was learned by Sir Henry Clinton, he sent a large additional force to the South. Reinforcements were also sent on to Lincoln, while the main body of the American army went into winter quarters near Morristown, in New Jersey.

Sir Henry Clinton, as soon as his forces, which had been dispersed by a storm, had been collected at Savannah, proceeded to invest Charleston; but as he advanced cautiously, the people of Charleston had time to increase the strength of their fortifications.

To enable General Lincoln to defend Charleston, the command of the harbor was deemed important; and with this view four frigates had been sent thither, which, with the marine of the State and two French vessels of twenty-six and eighteen guns, were deemed sufficient; but it was found that the water was too shallow in the harbor for the frigates to act with effect. It was therefore decided to co-operate with the fort on Sullivan's Island. Meanwhile the British brought their ships over the bar, and anchored in five fathoms water. When they had passed Fort Moultrie, which could not be prevented, they were able to rake the batteries on the shore.

Clinton was now in undisturbed possession of Ashley River; and, ascending about ten miles, he transported his artillery across the river, and moved down the neck within eight hundred yards of the American lines. While Clinton was making his approaches, Tarleton surprised a corps at Monk's Corner. Thirty were killed, and the rest escaped by flight. This celebrated partizan leader had, a short time before, met with a check. In one of

his excursions he had encountered Colonel William Washington, and engaging with him, was compelled to retreat.

The British were reinforced by three thousand men from New York, after which Charleston was completely invested. Fort Moultrie, when on the point of being assaulted, surrendered with its garrison of two hundred men. Tarleton, too, obtained other successes. At length Lincoln, finding himself incapable of defending Charleston, decided on capitulating; and he acceded to the terms which the besiegers had first offered. The fortifications, shipping, artillery, and public stores were all surrendered. The garrison, and all who had borne arms, were prisoners of war. The militia were allowed to return home on parole. In the siege the British lost seventy-six killed, and one hundred and eighty-nine wounded. The Americans about an equal number. The prisoners, exclusive of sailors, amounted to five thousand six hundred and eighteen, counting all the adult males of the town.

To bring the country entirely under subjection, Clinton sent forth three detachments. The first and largest in the northern part of the State, was under Lord Cornwallis. He detached Colonel Tarleton with his legion of cavalry and mounted infantry, to disperse Colonel Buford, then encamped near the North Carolina line. He was overtaken at the Waxhaws, and on his refusal to surrender, Tarleton made a furious charge on Buford's men, when some, in dismay, threw down their arms and asked for quarter, and some fired on the enemy. After this partial resistance, no quarter was given. Colonel Buford, with a few of the horse, and about one hundred infantry, escaped. One hundred and thirteen were killed on the spot; one hundred and fifty so badly wounded as to be incapable of being moved; and fifty-three were brought away as prisoners. The American officers deny (what the



British assert, that any who had laid down their arms had again taken them up. All further resistance to the enemy in South Carolina and Georgia seems then to have ceased. The two other detachments of the British army every where received the submission of the inhabitants, who either gave their parole not again to bear arms against the king, or took the oath of allegiance.

In a proclamation for settling the government, Sir Henry Clinton required all to return to their allegiance on pain of being treated as rebels and enemies. He then returned to New York, leaving Lord Cornwallis in command, with four thousand troops. This General, intending to make an expedition into North Carolina, wrote to the loyalists there to collect provisions and remain quiet until he arrived; but, disregarding his advice, they engaged in several fruitless enterprises; and a body of eight hundred, under a Colonel Bryan, marched on the east side of the Yadkin, until they reached Camden, in South Carolina, a principal magazine of the British.

Lord Cornwallis, considering South Carolina as entirely reannexed to Great Britain, would admit of no neutrality among the inhabitants; but insisted on their taking the oath of allegiance, which, however, was generally taken with reluctance by the people of the lower country. This part of the State was still further alienated by the licentious and plundering habits of the British soldiers over a conquered country, and by the seduction of many of the slaves from their masters.

A considerable force, under Baron de Kalb, had been ordered for the Southern army by Congress; but, for want of money, and a sufficient Commissary department, they were so delayed in their march, that it was late in July before they reached Cape Fear River. Here they were joined by General Gates, who had been appointed

to the command of the Southern army. The men of this detachment, ill-fed, suffered greatly from dysentery. In South Carolina, Gates was joined by Porterfield's Virginia regiment, Rutherford's corps of North Carolina militia, and Arnaud's legion.

When it had become evident that no effectual resistance would be made to the British in South Carolina, many of the principal inhabitants had taken refuge in North Carolina and Virginia. Among these was Colonel Sumter, whom about two hundred of the exiles chose as their leader; and some of those who were left behind, finding that the neutrality which they desired was no longer to be permitted, also joined Sumter, until their number reached six hundred. He was thus able to carry on an active and successful partisan warfare. A similar course was taken by others.

Gates having under him about four thousand men, of whom the regulars were less than one thousand, took post at Clermont. As the force of the Americans was daily increasing, Cornwallis, having under him about two thousand men, of whom nineteen hundred were regulars, decided on attacking the American army. It so happened, that the period chosen by Cornwallis to surprise Gates, was the very moment in which Gates proposed to surprise his adversary; and thus the advanced corps of both armies unexpectedly met at two o'clock in the morning. After some skirmishing, in which the British seemed to have had a decided advantage, both parties suspended their operations till the morning. On the first onset of the British, the Virginia militia under General Stevens fled with precipitation, and were followed by the infantry of Armstrong; and, except Colonel Dixon's regiment, the whole South

Carolina division followed the example.<sup>1</sup> Very few of the militia of either State discharged a single musket. Gates was borne away by the torrent, and, with General Caswell, retreated to Clermont, in the hope of collecting a sufficient number of the fugitives to cover the retreat of the regulars; but the hope was vain. He was fain to proceed to Hillsborough, to concert the future plan of operations. Thus left with an inadequate force on the field, De Kalb made a stout resistance; but in an impetuous charge, he fell, after having received twelve wounds. His troops were then unable to rally, and their discomfiture was complete. Their loss, in killed, wounded and prisoners, could not have been less than one thousand men. The British lost three hundred and twenty-five men.

Just before the action, Sumter had captured a convoy, and made two hundred prisoners; but was subsequently surprised by Tarleton, who recaptured the stores, killed one hundred and fifty, and took three hundred prisoners. Sumter escaped with difficulty.

There was no longer any armed American force in South Carolina, and Cornwallis resorted to energetic means of preventing disaffection. All those who were found in arms after they had submitted to British protection were considered as having forfeited their lives, and several of them were hung on the spot. But these severities, instead of their intended effect, produced a strong reaction; and Sumter was able to collect a new force, with which he greatly annoyed the north-western parts of the State.

This course of adverse fortune in the South it was not in the power of Washington to arrest. He had not the men to spare, and though these had not been wanting,

<sup>1</sup> IV. Marshall, page 181.



he was unable to provide for their pay and subsistence. At times there was neither meat nor bread in the magazines. The paper-money had visibly depreciated in 1777, and at the end of March, 1778, it had fallen to forty for one. This rate Congress did not hesitate to recognise as the difference between their first and last emissions. The States were therefore called upon for their quotas to make up three millions, to be paid in bills of the last emission, or specie. X

From the perplexing annoyances attending the office of Commissary-general, Colonel Wadsworth resigned it. A fit successor was not easily obtained. In this dilemma the Commander-in-chief was obliged to require specific quantities of meat and flour for the army; to which unwonted requisitions the people of Jersey submitted with exemplary patience.

An expedition against the forces on Staten Island was attempted under Lord Stirling; but not able to surprise them, as he had intended, he was compelled to retreat.

In consequence of the difficulties experienced in paying and providing for the army, three members of Congress were appointed to repair to the camp, and consult with the Commander-in-chief on the means of relief. Two regiments from Connecticut declared their resolution to return home, or obtain subsistence at the point of the bayonet.<sup>1</sup> It was with some difficulty that this mutiny was suppressed.

These discontents of the army, which were notorious, led the British to believe that the people were ready to abandon the cause of independence; and thus General Knyphausen, with five thousand men, was induced to invade New Jersey in June. Thence they marched to Connecticut, but finding that the temper of the people

<sup>1</sup> IV. Marshall, page 222.

had been misunderstood, after some skirmishes and destruction of property, most of the corps returned to Staten Island, leaving Knyphausen with the remainder at Elizabethtown.

On the seventh of June, Clinton, with an army of five thousand men, marched towards Springfield, in Massachusetts, but was so gallantly resisted by General Greene and others, that he returned to Staten Island.

In this moment of gloom, Congress had the satisfaction to hear that a French fleet was soon to arrive in America with troops to aid the United States. La Fayette, who had made a recent visit to France, had succeeded with his Court in effecting this seasonable assistance.

This intelligence raised the hopes and quickened the energies of the United States. A requisition was forthwith made of ten millions of dollars on the States; bills on Franklin and Jay were drawn for fifty thousand dollars; and a circular letter was addressed by Congress to the State governments, to urge their speedy and strict compliance with the requisition. Letters of the same character were written by the Commander-in-chief and the committee in the camp. Yet all these were not sufficient to rouse the States from the torpor into which they had fallen, or at least to overcome the inherent difficulties arising from their impoverished and exhausted condition. Something was, however, done by patriotic individuals. A bank was established in Philadelphia, chiefly by the efforts of Robert Morris, for the express purpose of relieving the army. The ladies of Philadelphia also made liberal contributions in money, and other valuables. Still the sufferings of the army for clothing were very great.<sup>1</sup>

While Washington was looking to the States for those

<sup>1</sup> IV. Marshall, page 244.

supplies which would enable him to attempt the recovery of New York, which had long been a favorite object with him, the French fleet arrived in Rhode Island on the tenth of July, under the command of Count de Rochambeau. The fleet brought a part of the troops destined for the land service, of whom the whole number was between five and six thousand men. Count de Rochambeau and the troops were to be under the command of Washington. He and the Count agreed upon an attack on New York. The squadron under the command of Chevalier de Ternay consisted of seven sail-of-the-line, five frigates, and five smaller vessels. The British then had in New York only four ships-of-the-line and a few frigates; but three days after De Ternay's arrival, Admiral Graves reached New York with six ships-of-the-line.

The British fleet, thus reinforced, proceeded to Rhode Island, but found the French fleet in too secure a position to be attacked. Sir Henry Clinton, meditating an attack on Newport, embarked six thousand troops, which he had intended for New York; but his object having been rendered more difficult by delay, he proceeded to Huntingdon Bay, when he ascertained that the works on Rhode Island were too strong to be successfully attacked.

The departure of Sir Henry Clinton encouraged General Washington in his views on New York; and accordingly he marched on the east side of the Hudson towards Kingsbridge, with an army of near ten thousand men, exclusive of militia; but the return of Sir Henry Clinton induced him to change his purpose. He then recrossed the Hudson, and took post near Orangetown. As four ships-of-the-line and two thousand land troops were expected from France, Washington awaited their arrival to undertake offensive operations.

General Greene, who had been acting as Quartermas-



ter-general, finding the difficulties of executing its duties too great for endurance, and that Congress was unwilling to change the system in conformity with his suggestions, resigned, and Colonel Pickering was appointed his successor. Similar difficulties were experienced in the Commissary-general's department, when news arrived that the French transports then expected had been blockaded by a British squadron at Brest. But it was still hoped that the combined fleets of France and Spain would raise the blockade. On a consultation between Washington and the French, the attack on New York was abandoned, to the great mortification and disappointment of Washington.

In the midst of these crosses and vexations, the cause of American independence was threatened with a far more serious disaster from the treachery of one of its sworn supporters.

Benedict Arnold was one of the most remarkable of the men whom the American Revolution raised from obscurity into conspicuous notice. Originally a druggist and bookseller in Connecticut, on the first prospect of war he became a soldier, and soon won a high military reputation. His character, as it was gradually developed, appeared a most extraordinary one; and in nothing more extraordinary than in its striking incongruities. Thus, though brave even to rashness, and panting for distinction and renown, ambition and courage did not produce their wonted ennobling effects on his mind, debased as it was by an inordinate love of money. Though he was habitually haughty and overbearing in his demeanor, yet in the pursuit of pelf, there was no means of gain, however low, to which he would not stoop: and lastly, with a miser's greediness of gold, he was free from the ordinary illusion of the miser in seeking wealth for its own sake,

but lavishly squandered what he had so eagerly coveted, and so unscrupulously obtained. Such was Benedict Arnold, as he at last appeared to those of his contemporaries to whom he was best known, and who were the most competent judges.

In consequence of the wounds that Arnold had received, first at Quebec and then at Stillwater, he was appointed by Washington to the command of Philadelphia after it was evacuated by Howe. He there married Miss Shippen, a lady of great beauty and accomplishments, the daughter of a gentleman who was at first ill-affected to the Revolution, but was subsequently made Chief Justice of Pennsylvania. Arnold now launched out into a style of living more ostentatious and expensive than ever, which he endeavored to support by every expedient he could devise — by trumping up claims against the government; by abuses of authority; by sharing in commercial schemes, in privateers, and even in the peculations of sutlers.<sup>1</sup> His acts of rapacity and meanness were patiently borne at first, in consideration of his past services; but the public authorities of Pennsylvania at length came forward as his open accusers. After a partial acquittal by a committee of Congress, the accusation was revived, and finally referred to a court-martial. A part only of the charges were deemed cognizable by a military tribunal. Of these he was acquitted of a part, and found guilty of a part, for which he was sentenced to be reprimanded by the Commander-in-chief. This sentence, deemed mild at the time, and intended to be so, afforded to Arnold the pretext of his country's ingratitude to justify that treason which subsequent facts show he had previously meditated.

His money-making schemes having utterly failed — some of them, indeed, adding to his debts rather than

<sup>1</sup> Alexander Hamilton. — See I. Life of Hamilton, page 274.

increasing his resources — he devised other plans of relief, at one time proposing to enter the naval service, and at another, to make himself the head of a community of Indians, both of which, however, he soon abandoned. One of his expedients was to obtain money from the King of France, through his minister, de la Lucerne;<sup>1</sup> but disappointed here, too, he determined to sell himself to the enemies of his country.

Among the officers of the British army which had possession of Philadelphia was John André, then a captain, who being amiable and accomplished, was well received at the house of Mrs. Arnold's father; and she and André were conspicuous characters<sup>2</sup> in the *mischianza* pageant. After André returned to New York, letters passed between him and Mrs. Arnold, on the subject of millinery; and this correspondence is supposed to have paved the way to one between André and her husband, carried on under the signatures of "Gustavus" and "John Anderson," in which the plan of Arnold's treason was begun and matured. By adroit management he obtained from Washington the command at West Point, in place of General Howe, with a view of putting the British in possession of that important fortress. He had even then signified to Colonel Robinson, of the British army, his sense of ill-treatment, and his wish to restore himself to the favor of his prince, by giving some signal proof of his repentance.

André, now Adjutant-general, with the rank of Major, was selected by Sir Henry Clinton to have a personal conference with General Arnold, with Arnold's entire concurrence. He accordingly came on shore from the Vulture man-of-war, then lying in the Hudson, met with

<sup>1</sup> M. de Marbois' Complot du Arnold.

<sup>2</sup> Annual Register for 1778, page 264.



Arnold on neutral ground, and was induced by him to enter within the American lines in the dress of a private citizen, and to remain there until the next day. The Vulture, having meanwhile been fired upon, had dropt lower down the river, and thus André was compelled to return by land. He was therefore, under the name of John Anderson, furnished with a passport from Arnold; and while on his way he was apprehended by three of a scouting party, who, in answer to his inquiry, pretended that they were "from below," that is, were royalists, to which he frankly and unwarily answered, "And so am I." On their telling him he was their prisoner, he showed them his pass, and remonstrated with them for detaining him. But they insisted on searching him, and in the feet of his stockings they found papers giving minute accounts of West Point, in the hand-writing of Arnold. He tried to tempt them by liberal offers, but they were immovable, and he was carried forthwith to Jamieson, Colonel of the scouting parties. André asked of Jamieson that General Arnold, who had given him his passport, should be informed of his capture; upon which Jamieson, an honest, but very dull man, whose faith in Arnold's integrity prevailed against the plain proof of his treachery afforded by the papers, wrote to Arnold, who thus had time to effect his escape. Jamieson at the same time sent the papers found upon André to Washington; but not knowing that the General had returned to West Point, the letter was addressed to him in Connecticut, which so delayed it, that Washington did not reach Robinson's house (the head-quarters) until four hours after Arnold had left it.

André's case was submitted by Washington to a numerous court-martial of general officers, who, on his own frank statement, decided that he was a spy, and must suffer death. The greatest efforts to save him were made

by Sir Henry Clinton, to whom André was greatly endeared; and even the degraded Arnold took on himself all the blame of André's violation of the laws of war: but Washington, who felt deeply for André, but would not permit his feelings to interfere with his duty, remained unshaken in his purpose; and the unfortunate young soldier was hanged as a spy; an ignominy which he seemed to regard as a greater misfortune than the loss of life itself. His youth and prepossessing person, his accomplishments, his bearing, at once gentle and dignified, the sad termination of his prospects lately so bright, melted all hearts; and none of those whose country's ruin he was so near effecting, witnessed his melancholy fate without tears.

It is believed, from the combined evidence of various circumstances, that the following was the plan and purpose of the conspiracy. On the assault of West Point by the British, for which they only waited the signal agreed on, Arnold was to post his men in ravines, and other situations, in which they must either surrender or be cut to pieces. With this strong post, with abundant stores and equipments, in the hands of the British, they must at once have obtained complete possession of New York; and, from that central position, have carried on the war with great, perhaps decisive, advantage against the Eastern and Middle States. The three most Southern States were now incapable of making much further resistance. André was to join in the assault, and was to be rewarded with the post of Brigadier-general. The memory of the captors of André—Isaac Van Wert, John Paulding, and David Williams—is held by their countrymen in as general respect, as that of Arnold is in detestation.

Arnold tried to make his sordid treachery wear the

garb of loyalty, and put forth an address to his countrymen, in which he ventured to recommend to them his own base example; but it is not known that he made a single convert. His rewards were a commission of colonel in the British army, with the brevet rank of Brigadier-general, upwards of thirty thousand dollars in money,<sup>1</sup> and undying infamy.<sup>2</sup>

While General Washington's bosom was glowing with indignation against Arnold, he felt nothing but tender commiseration for the traitor's unfortunate wife, whom he, in company with his aid, Colonel Hamilton, waited upon to soothe her in her affliction, and to tender her an escort either to her husband or her father. Both of them were persuaded that she had no knowledge of her husband's plot<sup>3</sup> till the capture of André made it known to the world. When the conflict of her feelings, so touchingly and eloquently depicted by Hamilton, had subsided, she expressed her determination to share the fate of her husband after she had visited her friends in Philadelphia. It seems that she would have remained permanently with her father, if the Executive of Pennsylvania had not exiled her from the State during the war.

The examination of Arnold's papers, after his escape, satisfied General Washington that the excuses he had been disposed to make for the improper acts imputed to

<sup>1</sup> VII. Lord Mahon's Hist., page 63.

<sup>2</sup> Every thing that has been published relative to this interesting episode in the History of the American Revolution, may be found in the second volume of that curious and valuable work, Lossing's Pictorial Field Book.

<sup>3</sup> In spite of all presumption to the contrary, Mrs. Arnold's friends in Philadelphia are convinced that she was not privy to her husband's treason; and, in support of their opinion, they have collected and printed (but not published) a mass of circumstantial evidence which it is not easy to resist.



Arnold were entirely unsupported, and that his speculations and frauds had far exceeded the charges of his accusers. He felt the most ardent desire to make an example of one so thoroughly base; and he formed many schemes for his capture, one of which Sergeant Champe, a man of great courage and merit, attempted to execute, at the most imminent risks of his life.<sup>1</sup>

Major Carleton, from Canada, with one thousand men, made an incursion into the northern parts of New York, where he captured Forts Anne and George, with their garrisons.

With the view of making a friendly treaty with Holland, Mr. Laurens, late President of Congress, was sent to that country; but on the voyage, he was captured by a British frigate, and all his papers were taken with him.

Among those who had fled from Georgia when it was overrun by Prevost, was Colonel Clarke, who, having collected a body of men in the western part of the Carolinas, was tempted to lay siege to Augusta, in Georgia, in which there was but a feeble garrison; but the place being reinforced by Colonel Cruger, from Ninety-six, Clarke was compelled to seek safety by a rapid retreat.

Colonel Ferguson, a most active and energetic partizan officer, had been sent by Lord Cornwallis to encourage and embody the loyalists in the western portions of North and South Carolina. Thinking he had a good opportunity of intercepting Clarke in his retreat, but failing in this purpose, he proceeded to arm and embody as 'many

<sup>1</sup> See a lively and interesting account of Champe's adventure in II. Lee's Memoirs, page 159.

<sup>2</sup> They had been thrown overboard, but were saved by a British sailor. Among them was the plan of a commercial treaty between the United States and Holland, which had received the approbation of the presuming Van Berkel. In consequence of this discovery, Great Britain declared war against that country.

Tories as he could; and, through two mountaineers, whom he captured and paroled, he threatened all who did not join his standard with fire and sword. The mountaineers of the Carolinas and Virginia, knowing how capable Ferguson was of executing his threats, and fired with resentment against the Tories not only for their own outrages, but for the barbarities to which they had stimulated the neighboring Indians, soon voluntarily assembled, under their respective colonels, for the purpose of attacking Ferguson himself. There were about eighteen hundred of these volunteers, under Colonels Campbell, Shelby, Sevier, M'Dowell, Cleaveland, and Williams; and they appointed Campbell, of Virginia, their leader, until Gates should send them a general officer.

Ferguson, on learning the approach of this force, whose numbers rumor had greatly exaggerated, retreated, and took post on King's Mountain, in South Carolina, near its northern boundary. The mountaineers, as soon as they heard of his retreat, selected nine hundred<sup>1</sup> of their best men, whom they mounted on their fleetest horses, and who the next day came up with Ferguson, encamped on King's Mountain. He had under him above one hundred British regulars, and about a thousand American loyalists or Tories. This eminence was soon surrounded and assailed in three columns by the mountaineers, most of them trained from their boyhood to the use of the rifle, in which Ferguson himself was also particularly skilled. The assailants were repulsed by the bayonet, on which Ferguson mainly relied; but while he was engaged in repelling one column, he was assailed by the other two, who were in like manner put to flight by the bayonet;

<sup>1</sup> Marshall says sixteen hundred men. The precise number was nine hundred and ten. — See the official return to Gates, signed by Cleaveland, Shelby, and Campbell, in II. Lossing's *Field Book*, p. 634.

but all three still returning to the assault, so as to assimilate the contest to that of a wild boar beset by three mastiffs. In these successive attacks, Ferguson's men, without breastwork or defence, were gradually thinned in their numbers, by the unerring rifles of their adversaries, until at length he himself fell, mortally wounded. All hopes of resistance then deserted his followers, and they surrendered prisoners of war.

With the bitterness of hatred engendered by civil strife, and, as it was said, in retaliation for the cruelty practised on the defeated party at Camden, ten of the prisoners were hung on the spot.<sup>1</sup> The total loss of the enemy was eleven hundred and five men, of whom two hundred and twenty-five<sup>2</sup> were killed, one hundred and sixty-three wounded, and a few made their escape. Fifteen hundred stand of arms were taken. The loss of the assailants was small, but among them was Colonel Williams.

These hardy sons of the forest, after having achieved the patriotic purpose of their expedition, hastened to their log-cabins,<sup>3</sup> and their wonted occupations. It is

<sup>1</sup> Even this only dark part of the picture is relieved by the incident mentioned by Judge Johnson in his *Life of Greene*, which I will give in his own words :

“There were eleven selected, but one of them broke from the party conveying them to execution; and, though he had to make his way through a thousand of the best horsemen and marksmen in the world, such was the unusual admiration or feeling on the occasion, not one would lift a hand to stop him.”

<sup>2</sup> The superiority of these marksmen was shown in the excess of the killed over the wounded. It is said that a considerable number of the slain were shot in the forehead.

<sup>3</sup> Though the country in question now abounds with comfortable and even handsome mansions, there probably was not half a dozen of those engaged in the capture of Ferguson who did not occupy a log house.



probable that no single battle or event had so much influence on the operations of Cornwallis in America as this. But for the discomfiture of Ferguson, Greene could not have got back to Virginia, and the greater part of North Carolina, if it had not submitted to the British, would at least have continued debatable ground between the Whigs and the Tories. The names of the leaders of this expedition are particularly cherished by the people of the western parts of Virginia and the Carolinas.

Lord Cornwallis, who, little dreaming of such a disaster, had pushed on towards Salisbury, where he expected to be joined by Ferguson, now deemed it prudent to return to Winnsborough, between Camden and Ninety-six, in South Carolina. Here, too, matters had changed for the worse. He had ordered a sequestration of the property of all those who had borne arms against Great Britain, or were preparing to do so. This measure, and the excesses of the Tories, had roused the spirit of the patriotic party, who found most brave and efficient leaders in Sumter, in the upper part of the State, and Marion in the Eastern. The latter, when pressed by superior numbers, took refuge in swamps, where he encountered every species of privation; but whence he issued, as soon as circumstances favored him, to annoy the enemy. Tarleton, with his legion, was sent against him, but without effect. Sumter proved an equal annoyance, and with like success. He repulsed two attacks, the first under Major Wemys, and the latter under Tarleton, who sustained a loss of near two hundred men.

Much dissatisfaction existed against General Gates after his defeat at Camden, and Congress having ordered a court of inquiry on his conduct, Greene was appointed to the command of the Southern army by the advice of

Washington, with whom this officer was an especial favorite; which fact is the more worthy of notice, as he was next in popularity to Washington himself with the American people. Greene reached Charlotte, the headquarters of the Southern army, on the second of December;<sup>1</sup> and his force did not much exceed two thousand men, the major part militia. He detached Morgan with four hundred men to the South of the Catawba, to act offensively or not, according to circumstances. When he had descended the Pedee River to the Cheraw Hills, Cornwallis was between Morgan and Greene, and hoped to attack them separately before they could form a junction.

Morgan finding he was closely pursued by Tarleton, retreated to the Cowpens, about three miles from the line which separates the Carolinas. He was there attacked by Tarleton, on the seventeenth of January, 1781. Morgan having posted his men judiciously, prepared to meet the attack with his wonted intrepidity. The militia, who were placed in front, yielded to Tarleton's impetuous onset as readily as he had anticipated. It was found necessary that a party of the continentals, under Colonel Howard of Maryland, should change its position. Tarleton, confident now of success, pressed on his enemies in their seeming retreat, when they, suddenly halting, and facing their enemies, poured on them a deadly fire that filled them with surprise and dismay. Perceiving their confusion, Howard ordered his regiment to charge, and the British line was irrecoverably broken. Colonel Washington was equally successful on the right. His cavalry were ordered to charge, when the British gave way, and were pursued. Their artillery and most of the infantry

<sup>1</sup> IV. Marshall, page 339.

surrendered. In this battle, one hundred of the British were killed, and five hundred and twenty-nine were made prisoners. Eight hundred muskets and two field-pieces were the fruits of the victory. The loss of the Americans, in killed and wounded, was less than eighty men. Morgan stated his whole force at eight hundred men. This was, perhaps, the most brilliant success of the American arms during the Revolution.

Notwithstanding the discouragement to Cornwallis from this action, he did not desist from his purpose of endeavoring to intercept the victor's retreat. Morgan, aware of the danger which threatened him, lost no time in passing Broad River, and had scarcely crossed it, when the van of the British army reached its southern bank.

On the first of February, Cornwallis passed the Catawba at a ford defended by three hundred men, under General Davidson, who was there killed. He continued a rapid pursuit, having rid himself of all heavy and unnecessary baggage. He pressed so closely on the Americans, that in crossing the Yadkin the van of the British skirmished with Morgan's rear-guard. A fall of rain now checked the progress of the pursuers. While Cornwallis was ascending the southern bank of the Yadkin to a point where it was fordable, Greene continued on to Guilford Court-house, where he was joined by the division of Huger. His infantry was now two thousand, of whom six hundred were militia. Cornwallis, twenty-five miles above him, had a force of twenty-five hundred, including three hundred cavalry. As he had not been able to prevent the junction of the American forces, his object now was to intercept their march to Virginia. Believing that Greene could not obtain boats to transport his troops across the Dan before he would be overtaken, he



kept near the mountains, the better to prevent Greene from fording the river. Greene then changed his course, and marched to the lower ferries, by which means he increased the distance between himself and Cornwallis, and was able to pass over his army by the time the British, discovering their error, reached the opposite bank. This retreat obtained great praise for Greene, as he had thus saved his stores, as well as his army, from the grasp of an enemy superior in numbers, who had rid himself of his incumbrances to quicken his pursuit. It was one of several proofs in this Revolution, that, in the game of war, a timely retreat is second only to a victory. Greene being now driven out of Carolina, Cornwallis proceeded to Hillsborough.

After Greene had crossed the Dan, he was reinforced by six hundred militia from the neighboring counties, over whom he placed General Stevens; and, to check the influence of the British on the people of North Carolina, he recrossed the Dan. His fears of their fidelity proved well founded. In one day, seven independent or loyal companies were raised, and a large number of them embodied themselves on Haw River. A party of these, under Colonel Pyle, mistaking Lee's for Tarleton's legion, was cut to pieces by Lee.

Cornwallis, the better to subsist his army, changed his position to one further south; and as he retreated, Greene advanced; but not yet willing to hazard an action, he changed his ground every night. When, however, he had received all the reinforcements he expected, he wished to bring on an engagement before any of his militia left him. He marched, therefore, to Guilford Court-house, twelve miles from the British encampment, at which time his force was four thousand two hundred and sixty-one, including one hundred and eighty-eight cavalry:

one thousand four hundred and ninety-nine were regulars; the rest were militia of Virginia and North Carolina.

On the thirteenth of March, he was attacked. His force was ranged in three lines: the first consisted of North Carolina militia; the second of Virginia militia; and the third of continentals. After a hurried discharge, the North Carolina regiment precipitately fled, many of them throwing away their arms. The second line, under Stevens, stood with some firmness, but, in no long time, gave way; and one of the Maryland regiments, composed of new levies, took to flight when charged with the bayonet. With this exception the regulars fought with great spirit and effect, so that, for a short time, Greene was confident of victory. The British artillery, however, coming up to the relief of their retreating corps, the fortune of the day ~~was~~ changed, and Greene was compelled to order a retreat, which was made without confusion, and without any attempt at pursuit.

The battle of Guilford was honorable to both parties: to the British, in gaining a victory with very inferior numbers; and to the Americans, in not suffering a complete route from the hasty and disorderly flight of their first line, and afterwards of one of the continental regiments. They deserve credit, too, for the obstinate valor of their combatants, and the execution they did. Official returns state the loss of the British at five hundred and thirty-two men. The loss of the American regulars, in killed, wounded and missing, was three hundred and twenty-six; that of the militia was unknown, and was probably not great.

To obtain supplies for his army, which the country he was in could not furnish, Lord Cornwallis marched to Wilmington, near the coast, having first issued a procla-

mation, announcing his victory, and calling on all loyal subjects to join his standard.

Greene then decided on entering South Carolina; but impeded by heavy rains, he did not reach Ramsay's Mills, on Deep River, till the twenty-eighth of March, where he had expected to overtake Cornwallis. Here part of his militia left him, when, giving over the pursuit, he proceeded to South Carolina, with an effective force of only seventeen hundred men.

In the latter end of the preceding year, Virginia had been invaded by a force of from twenty-five hundred to three thousand men, under General Leslie. He took possession of the country south of James River as high as Suffolk, and began to fortify Portsmouth; but after Ferguson's disaster, he was ordered by Cornwallis to Charleston. The State was again subsequently invaded by Arnold, who wished to give his new friends some proofs both of his zeal and efficiency.

Though his force was scattered and diminished by a storm, he arrived at James River with twelve hundred men, and reached Westover in the beginning of the year 1781. He there landed, and marched to Richmond, where a large quantity of military stores was deposited. These were sent to Westham and other places for safety. Thither a detachment was sent, which destroyed the stores at that place, as well as those at Richmond. Returning then to Westover, he re-embarked, on the tenth of January, for Portsmouth.

Meanwhile the militia assembled from different quarters, but it was not easy to arm them. Baron Steuben, with about two hundred new levies, followed Arnold down the river, but had not strength enough to check his depredations. The loss of the British in this expedition was quite insignificant.



At this period of the war, the sufferings of the army had approached the utmost limits of human endurance. Always ill provided with clothing, the soldiers were sometimes also without food; and at this time, twelve months' pay was due to them. In these particulars, all the army had a common cause of complaint. But the Pennsylvania line urged that they had enlisted for three years, or the war, and that they were entitled to their discharge after the expiration of that term; while their officers insisted that they should serve till the end of the war. The result was, that the troops broke out into open mutiny on the first of January, 1781; and in the efforts to put it down, a captain was killed, and several officers dangerously wounded. Wayne, a favorite with the army, and a Pennsylvanian by birth, interposed without effect. At length the whole body marched towards Princeton. On a further interposition of Wayne, they stated their demands, which were referred to the civil authority. Washington had not with him then a sufficient force to reduce the mutineers to submission, and did not deem it safe to quit West Point. Meanwhile Sir Henry Clinton was disposed to profit by the mutiny. He despatched emissaries to negotiate with the revolvers; but they indignantly replying that they were not "Arnolds," seized the emissaries, and communicated their proposals to Wayne, with expressions of detestation of those proposals, but forbore either to give up those agents, or to leave Princeton.

The Executive of Pennsylvania, President Read, with a committee, then effected a compromise with the troops, by which those who had enlisted for three years, or during the war, were to be discharged: to receive certificates for the depreciation of their pay, and to be furnished immediately with specified articles of clothing. The

emissaries having been given up, were tried, condemned and hanged as spies. In the haste with which the first article was executed, by which most of the claimants were discharged with no other evidence than their own oaths, it was found, on investigation, that most of those yet in service had a right to their discharge by the terms of enlistment; while the greater part of the discharged had been enlisted for the war: and thus was virtually dissolved the whole Pennsylvania line.

The success of this example of mutiny had its effect on most of the Jersey line. General Washington now determined to put down a spirit that would be ruinous to the efficiency of the army. General Howe was detached on this duty, with orders to make no terms with the revolvers while they had arms in their hands; and as soon as they surrendered, to seize a few of their leaders, and execute them on the spot. This order was carried into prompt execution; and the vigorous procedure caused the line to return to their duty.

Sir Henry Clinton made another attempt to profit by this mutiny, but it was extinguished before his propositions could be made. Washington, having thus quelled the spirit of insubordination, prevailed on the States to attend to the just claims of the soldiers.

The pressure of the government on the citizens generally was so great at this time, as to cause loud complaints. All articles were now taken by impressment, as the army was without specie, paper-money was not current, and Congress had no means of revenue except by requisitions on the States, which were little heeded. Every one perceived the increasing difficulties of continuing the war. A foreign loan was the only expedient left to Congress. Accordingly an agent was sent to France to negotiate a loan. The difficulties experienced

by the United States were not unknown to the British, and they were thence led to form the most sanguine hopes. These same difficulties, moreover, induced Congress, in their foreign negotiations, to listen to terms hitherto deemed inadmissible. They were disposed to accede to the propositions of Spain to relinquish the navigation of the Mississippi below the thirty-first degree; and this concession would have been made, if Mr. Jay, who was the American minister at Madrid, had not insisted as a preliminary, that the treaty he was negotiating with Spain should first be concluded.

The articles of Confederation were now adopted by all the States; and the business of an administrative character, which had been hitherto done by committees of Congress, was thenceforth confided to ministers of different departments.

As some of the British ships which had blockaded the French ships in the harbor of Newport had been destroyed in a storm, they no longer had a superiority over Admiral Destouche. He then was able to send some of his fleet to Virginia; and, at the urgent instance of Washington, to transport a part of their land troops also, though they had at first been refused. It had indeed required a personal conference between General Washington and the Count de Rochambeau at Newport, before the latter would consent to a second expedition with a part of his troops. But while the French fleet was on its voyage to Virginia, it had an indecisive engagement with the British fleet under Arbuthnot, after which the French admiral returned to Newport. The leading object of this expedition was to capture Arnold, then at Portsmouth; and Washington had detached La Fayette to Virginia, to co-operate with the French in effecting this object. Governor Jefferson had, at the same time,



offered a reward of five thousand guineas for his capture.

Virginia was, at this time, peculiarly exposed to the ravages of war. Her best troops were then in the South and the West. Her militia in the field, though generally good soldiers, were ill armed, and scarcely exceeded two thousand men. Her Governor was quite unversed in military affairs. Her treasury was empty, as paper-money had ceased to circulate, and specie was but slowly taking its place. \* The most valuable product of her soil was tobacco, which was deposited by the planters in large public warehouses for inspection, and there remained until it was withdrawn for export. These circumstances decided the British to invade the State with a yet larger force, bent as they now were on aiding the sword of the soldier with the torch of the incendiary.

General Phillips, who had been captured with Burgoyne, and had been recently exchanged for General Lincoln, was one of those by whom this inglorious duty was readily accepted. His professional zeal was quickened by resentment for what he had regarded as an unjust detention in captivity. About the last of March he arrived at Portsmouth from New York, with two thousand men. His arrival was cordially welcomed by the British forces under Arnold, whom he superseded in command, and who had experienced from his new associates the odium which treason never fails to incur. After fortifying Portsmouth, Phillips ascended the river with twenty-five hundred men; landed opposite to Williamsburg; destroyed the public stores in the neighborhood; re-embarked for City Point; and thence marched by land to Petersburg, to his possession of which Baron Steuben, with one thousand militia, offered a spirited, but ineffectual resistance.

From this point Phillips and Arnold, either separately

or united, carried on their marauding expeditions, and destroyed not only the barracks and public stores, but also the tobacco of private persons in Petersburg and Manchester. From this town they would have crossed James River to Richmond, if they had not been prevented by the opportune arrival of La Fayette from Baltimore. He had been ordered by Washington to proceed, with twelve hundred men, to the relief of Virginia; but they would have been incapable of marching, if the young Marquis had not, by pledging his own private credit, provided them with shoes, linen, and other necessities. His generosity was aided by the patriotism of the ladies of Baltimore,<sup>1</sup> who made up the summer clothes of the detachment.

La Fayette, anticipating that a junction at Petersburg was intended between Phillips and Lord Cornwallis, who was expected from North Carolina, hastened to prevent it by taking post in that town; but fortunately for him, perhaps, Phillips was before him. Four days after his arrival Phillips died, and the chief command again devolved upon Arnold, which, in a week, he was compelled to surrender to Lord Cornwallis; and in no long time he obtained leave to go to New York on important private business.

Lord Cornwallis left Petersburg about the twenty-third of May; and having received a reinforcement from Sir Henry Clinton, he retained one regiment, and sent the residue to Portsmouth with General Leslie. Knowing of La Fayette's youth and bravery, he counted also upon his rashness and inexperience; and he exultingly wrote to a friend in England, that "the boy" could not escape him. To verify his boast, he lost no time in endeavoring

<sup>1</sup> The same patriotic spirit was exhibited by the American women, throughout the Revolution, in almost every part of the Union.

to cut off La Fayette's retreat to the mountains. But as soon as the young Marquis learnt that Lord Cornwallis, with his army, had crossed James River at Westover, he left Richmond with about three thousand men, two-thirds of whom were militia, and who were all that the State was then able to arm.<sup>1</sup> He crossed the Chichominy, and proceeded towards Fredericksburg, with the twofold object of protecting military stores, and of meeting the reinforcement he expected from Pennsylvania. Cornwallis had been able to add to the number and efficiency of his cavalry by means of the fine horses with which Virginia abounded; and to avail himself of this advantage, he despatched Lieutenant-colonel Simcoe — scarcely inferior to Tarleton as a partizan leader — with five hundred men, infantry and cavalry, to destroy the arsenal and military stores at the Point of Fork in Fluvanna. He at the same time detached Tarleton, with two hundred and fifty well-mounted horse, to seize the members of the Legislature then sitting in Charlottesville. Before Simcoe reached the Point of Fork, Baron Steuben, who was there stationed with six hundred new levies for the protection of the arsenal and stores, mistaking Simcoe's force for the van of the British army, hastily crossed the Fluvanna, after having destroyed such stores as he could not remove. Under a continuance of the same mistake, he destroyed the stores which he had removed, before he continued his unnecessary retreat. Fifty of his men, who had not yet crossed, were captured by Simcoe. Tarleton was also disappointed as to the main object of his expedition. A private citizen happened to be at a tavern in Louisa, and seeing Tarleton's detachment on its march, suspected the object; and by means of a fleet horse and a shorter road, gave Governor Jefferson and the members

<sup>1</sup> Letters from Jefferson to Washington, IV. Burke, page 492.



of the Assembly, with the exception of seven, sufficient notice to effect their escape. The Assembly had time to adjourn to Staunton, beyond the mountains.

After La Fayette had retreated across the Rapidan, he was joined by Wayne, with eight hundred men from Pennsylvania; and he had previously received small reinforcements of militia and of well-mounted horse. With this increase of strength he recrossed the Rapidan, and marched to the protection of the valuable magazines at Albemarle Old Court-house, which Tarleton had been detached to destroy. He was then in a position which compelled him to engage the whole force under Cornwallis, to which his was greatly inferior, or abandon the protection of the magazines. But by great exertions he was, in the course of a night, able to open a road<sup>1</sup> long disused, and to march his whole force on it to a strong position at the old Court-house, by which he effectually protected the public stores. He was here joined by a large corps of riflemen from the mountains. Cornwallis finding all his attempts to circumvent "the boy" ineffectual, and overrating La Fayette's force, abandoned his purpose, and turned his course to the lower country. La Fayette followed in the same direction; keeping, however, at a prudent distance.

Cornwallis finding that his enemy had eluded him, and might in turn annoy him, deemed it prudent to descend to the lower country. He accordingly, on the eighteenth of June, retreated to Williamsburg. La Fayette at Rich-

<sup>1</sup> This road to the first Albemarle Court-house having been originally much used by runaway debtors emigrating to the South, was called, in the neighborhood, *The Rogue's Road*. After the Revolution, it was known as *The Marquis's Road*. In travelling it many years since, I have noticed the letter K cut on some old pine-trees at the road-side, by which, as I learned, the unschooled fugitives indicated Carolina to those who might follow their example.

mond was joined by Steuben with four or five hundred new levies, making his whole force four thousand men; but only fifteen hundred were disciplined troops. Cornwallis's force was numerically larger: it consisted wholly of veterans, and a well-mounted cavalry. La Fayette kept at the distance of about twenty miles. He was overtaken by Colonel Butler, and an action ensued, that was indecisive.

Washington meanwhile remained in New York, ready to make an attack with Rochambeau on the city, when circumstances should favor him. His letter communicating his purpose to Congress having been intercepted, Sir Henry Clinton, alarmed for the city, wrote to Cornwallis for a part of his force, which he, having sent, thought of retreating to Portsmouth. La Fayette having approached him while at James Town, an action ensued, in which the American force was worsted, and then retreated behind a morass. Fortunately, Cornwallis thought this was a stratagem, and did not follow up his advantage; but the next day proceeded to Portsmouth.

The military force embodied in the beginning of 1781, to maintain the cause of independence, is thus stated in Marshall's *Life of Washington* :<sup>1</sup>

“The Southern troops, from Pennsylvania to Georgia, did not exceed three thousand men. Of the Northern troops, twelve hundred had been detached to Virginia, under La Fayette; with these they amounted only to three thousand effective men in April. The cavalry and artillery was less than one thousand. With some small additions the whole reached four thousand men in May. They were ill supplied with clothing, and were seriously threatened with a want of provisions. The quartermaster's department was without means of transport.”

<sup>1</sup> IV. Marshall, page 446

At this time an invasion from Canada was threatened, as well as new hostile combinations among the Indians. A further source of perplexity arose from the settlers of what is now Vermont, who claimed lands there under the grants of New Hampshire, while New York had always asserted this country to be a part of her territory. A furious contest arose on this subject, which threatened to end in bloodshed. The Vermonters insisted on being admitted into the Union. Their course made it probable that, in case of their application being refused, they would submit to British authority.

Under these embarrassing circumstances, it was agreed between Washington and Count Rochambeau to make an attempt to wrest New York from the British, as their force in that city did not exceed four thousand five hundred men; but the whole American army in Virginia and the Northern States, in June, was less than five thousand men.

Let us now return to the operations in South Carolina. After Lord Cornwallis left that State, the command devolved on Lord Rawdon. Marion and Sumter were still in arms, but though they defied all attempts of Lord Rawdon to capture them, they were able to effect nothing of importance.

Greene, on his return to South Carolina, attempted to carry some of the several posts which the British had erected from Charleston to Augusta. He first made an attack on Camden. Unable to storm the works, or completely invest the place, he took a position before it to profit by circumstances. Having detached a part of his force to obtain provisions, Lord Rawdon, with nine hundred men, sallied out to attack Greene, who was then posted at Hobkirk's Hill, and from whom victory was again snatched, when he thought it within his grasp.



Greene, finding the fortunes of the day changed, reluctantly ordered a retreat, which was made in good order, and with fifty prisoners. The loss of the Americans in this action, in killed, wounded and missing, was two hundred and sixty-six. The number engaged was twelve hundred. The total loss of the British was two hundred and fifty-eight.

Several of the British posts were subsequently taken, when Lord Rawdon, not being able to bring on a general engagement, retired to the lower country. Greene invested the British fort at Ninety-six, but Lord Rawdon being reinforced by three regiments from Ireland, the besiegers were repulsed with considerable loss, and the attack was abandoned by Greene. In several partial rencounters with cavalry the Americans were successful, and took a hundred prisoners.

During these fierce rencounters of the two hostile armies, the opposite parties of patriots and loyalists had their animosity excited to the highest pitch, and occasionally gratified their vindictive feelings by inflicting the penalties of treason. One of those who suffered in this way was Colonel Hayne of Charleston, who being charged with deserting the British cause, after he had given in his qualified adhesion, was hung as a traitor. He was highly respected in South Carolina, and his death was so resented, from the peculiar circumstances of his case,<sup>1</sup> that it had almost produced a system of retaliation.

Throughout the summer, both parties were actively engaged in subjecting different portions of the country to their respective authorities, in which the American cavalry particularly distinguished itself. Greene, no

<sup>1</sup> See II. Ramsay's Hist. Rev., p. 277.

longer expecting aid from French troops about to return home, decided again to engage the British force in South Carolina.

Hearing of Greene's approach, the British army retired to Eutaw. They were there attacked on the eighth of September. On a steady charge under Colonel Williams and Lieutenant-colonel Campbell, part of the British line broke, and fled in confusion. The sharp conflict that took place with the remainder was terminated by a charge of Lee's cavalry, when the British force was wholly driven from the field: but a detachment having taken shelter in a three-storied brick house, all attempts to dislodge them proved fruitless. The broken battalions were then rallied, and again brought into action; and in a charge by Colonel Washington his horse was killed, when he fell, and was taken prisoner. The battle was obstinately continued on both sides, without any thing decisive, when Greene withdrew his troops to the ground they had occupied in the morning.

In this action, which Greene regarded as a victory, the American killed, wounded and missing were five hundred and fifty-five. The loss of the British was six hundred and ninety-three. Their respective forces were about equal. Lord Rawdon having returned to England, the British were commanded by Lieutenant-colonel Stuart.

In the pecuniary difficulties of the United States, Mr. Robert Morris was now appointed superintendent of finances, in which department he had peculiar skill; and though he could not supply the deficiency of money, he greatly mitigated its evils. One of his expedients was the establishment of a national bank, the paper and credit of which greatly aided the impoverished treasury of the Union; and these services have justly ranked him

among the most efficient instruments of American independence.

The respective forces under Washington and De Rochambeau having, after some unexpected delays, assembled at Dobbs' Ferry, they there awaited the arrival of the French fleet, under the Count de Grasse, before they attacked New York. A reinforcement of about three thousand British having arrived there, Clinton countermanded his order for a part of Cornwallis's troops, and that General was ordered to occupy a more central position in Virginia than Portsmouth.

Washington was now informed that the Count de Grasse was on his way from St. Domingo to the Chesapeake, having on board three thousand two hundred soldiers, and that he had engaged to return to the West Indies by the middle of October. The American General decided to change his plans, and to bend all his efforts against Cornwallis, instead of New York. He, however, took great pains to conceal this change of purpose from the enemy, by his own movements, and by letters intended to be intercepted. He succeeded so well, that even when he had begun his march towards Virginia, Clinton was led to believe that it was merely to draw him from New York, and then attack him with a superior force.

Washington waited until he heard that De Grasse had entered the Chesapeake, when he crossed the Delaware for that Bay, and thus his purpose was made manifest to all. Clinton then, as his last resort, made an effort to recall Washington by an invasion of Connecticut under Arnold. New London was captured by the traitor, after a spirited defence, and the garrison at Fort Griswold inhumanly put to the sword. The town and the stores it contained, were consigned to the flames.



Washington, however, was not to be thus diverted from his purpose. He proceeded to Virginia with the Count de Rochambeau and Chevalier de Chastellux, De Grasse, at the Capes, met with a British fleet, which, though inferior in numbers, ventured to engage him. He did not decline an action, but would not thereby put to hazard the more important object of capturing Cornwallis. He therefore so used his advantage of being to windward as to decline a close action, and to secure the safe entrance of the squadron under Barras, from Rhode Island, into the Bay.

Lord Cornwallis, not deeming Portsmouth a safe station, had made a selection of Yorktown, on York River, twelve miles below Williamsburg.

The allied armies proceeded at once to this place, and proposing to besiege it, opened their first parallel on the sixth of October, within six hundred yards of the British lines. The second parallel was opened on the eleventh; and two redoubts which annoyed the besiegers were gallantly taken by assault—one by French troops, commanded by Alexander Hamilton; and the other by American troops, commanded by La Fayette, both of whom, though justly provoked by the course pursued at New London under similar circumstances, disdained to follow the unworthy example. Cornwallis finding further resistance unavailing, was disposed to make the desperate attempt of crossing the river over to Gloucester Point; and cutting his way through the American force stationed there, to aim at reaching New York by forced marches. But a storm prevented an attempt which could scarcely have succeeded. No course was now left but for him to capitulate; and he did so on the nineteenth of October. The army, and all that belonged to it, was surrendered to Washington; and the ships and seamen to the Count de

Grasse. The total amount of prisoners, exclusive of seamen, was about seven thousand. The loss sustained in the siege was five hundred and twenty-two. The allied army was estimated at sixteen thousand, of whom seven thousand were French.

This capture filled the country with pride and exultation, and no one doubted that it must soon put an end to British hostilities, which the experience of six years had shown were as unavailing as they were burdensome and expensive. The French fleet sailed for the West Indies, and the Commander-in-chief proceeded to Philadelphia.

After the surrender of Lord Cornwallis, the British post at Wilmington, in North Carolina, was evacuated. Their troops in Georgia were concentrated at Savannah, and subsequently the troops in South Carolina were collected in Charleston.

Congress, as early as the tenth of December, after a conference of a committee of their body with General Washington, assisted by the heads of departments, decided on the requisitions to be made of the States, and other preparations for the next campaign. The General addressed a circular letter to the States, in which he impressed them with the necessity of a strict and early compliance with these requisitions, to make the next a decisive campaign.

It having now become evident to all unbiassed minds that Great Britain could not hope to reduce her former colonies again to subjection, a cessation of hostilities was pressed in Parliament by the Opposition, and finally prevailed. A change of administration soon followed, and the ministry had the sanction of Parliament to conclude a peace. Sir Guy Carleton, who had succeeded Sir Henry Clinton in command of New York, and was appointed, with Admiral Digby, a Commissioner to negotiate a peace,

communicated these facts to General Washington and to Congress. The only immediate effect of these measures was to suspend all further active military operations on both sides. Other communications of the same conciliatory character having been received from General Carleton, the jealousy of the French minister was excited, and to quiet his fears, Congress passed a resolution that they would enter into no discussion relative to pacification, but in concert with His most Christian Majesty.

In July, 1782, the British garrisons were withdrawn from Savannah, and from Charleston on the fourteenth of December. After a protracted negotiation, preliminaries of peace were signed at Paris on the twentieth of January, 1783, by which the Independence of the United States was formally acknowledged.

[NOTE.—In narrating the events of the War of the Revolution, I have principally relied on the authority of Gordon, Marshall, the Annual Register, and Sparks's Writings of Washington, all of whom are distinguished both for fairness and accuracy.]



## CHAPTER IV.

### THE FEDERAL CONSTITUTION.

1783—1788.

THOUGH the struggle for independence was virtually at an end in 1782, and all active hostilities had then ceased on both sides, there was no small difficulty and delay in agreeing on the terms of pacification after the belligerents had decided on putting an end to the war.

On the seventeenth of December of this year, John Adams, Benjamin Franklin, John Jay, and Henry Laurens, were appointed Commissioners to negotiate peace; and the French minister to the United States, M. de La Lucerne, having communicated to Congress that Great Britain was disposed to negotiate a separate peace with the United States, Congress decided that they would hearken to no proposition of that character, but in concert with His most Christian Majesty, in conformity with the like declaration which the King of France had made to the British minister at Paris.

Mr. Jay, who was acting as minister to Spain, having been sent for by Dr. Franklin to assist in the negotiations for peace then begun at Paris, soon finding that the British ministry were strongly disposed to insist on a qualified dependence of America, or at least some political connection with Great Britain, and wished to make a separate peace with the United States, he communicated the facts to Congress, with the concurrence of Dr. Franklin: on which that body, on the fourth of October, renewed their declara-

tion that they would make no peace, except in concert with His most Christian Majesty, nor unless American sovereignty and independence were fully recognised.<sup>1</sup>

The British ministers had employed Mr. Oswald to treat with the American Commissioners, and in his commission the United States were styled American colonies or plantations. This paper having been shown to Mr. Jay, he objected to it, and refused to enter into any negotiation, unless the United States were recognised to be sovereign and independent; and though the French minister regarded this as an unnecessary preliminary, and urged Mr. Jay not to insist on it, and Dr. Franklin was disposed to take the same view, Mr. Jay adhered to his first purpose, and pressed it so earnestly, that Dr. Franklin at length concurred with him, and Mr. Oswald wrote home for the further instructions required, which he finally obtained.

This difficulty being removed, it soon appeared that there were other serious impediments to a pacification. Spain, as has been mentioned, was strongly disposed to deprive the United States of the right of navigating the Mississippi, and to resist the extension of their settlements as far west as the banks of that river. She presumed that England would rather favor than oppose these restrictions on the growth and power of her former colonies; and she was not without hopes that, profiting by the successes of her allies, she might eventually obtain a cession of Gibraltar.

These claims of Spain to the exclusive navigation of the Mississippi, and to the territory on its eastern bank, were openly favored by France, apparently from her friendship towards a kindred state: but it further appeared that France also wished the United States to sur-

<sup>1</sup> III. Journals of Congress, page 249.

render the right to the fisheries, which it was understood that Great Britain was inclined to withhold — at least, that her ally should be content with the right of fishing near the coast, and would not contend for that on the Grand Bank of Newfoundland.

It does not appear whether this part of her course was dictated merely by her anxiety to make peace, and consequently to remove what she deemed the principal difficulty in the way of so desirable a result, or whether she expected, by the proposed restriction, to extend this branch of her own shipping; it being known that the New England fishermen, from their proximity to the banks of Newfoundland, could begin to catch fish earlier during the fishing season, and continue it later, than any European nation. Whatever was the cause, the discovery of the fact excited no little jealousy and dissatisfaction on the part of the American negotiators.

When Mr. Jay left Madrid, the negotiations of the United States with Spain were transferred to Paris, where the Count de Aranda attended as the minister of Spain. He there denied that the western limits of the United States extended to the Mississippi, urging that the country in question, before the war of 1756, belonged to France, and, after the peace of 1763, to Great Britain, until, by the conquest of West Florida, and certain posts on the Mississippi, it passed to Spain. He then proposed to run a boundary line on the disputed territory between the United States and Spain; to which proposition the American Commissioners peremptorily objected.

Rayneval, the Count de Vergennes' Secretary, took an active part in behalf of these pretensions of Spain, and proposed a "conciliatory line," founded on the alleged claims of England before the war of 1756, which, he maintained, only extended to the country south of the



Ohio. The line thus proposed by Rayneval would have excluded the United States from the lands north of the Ohio, now constituting the five States of Ohio, Indiana, Illinois, Michigan, and Wisconsin, a part of Tennessee, and nearly the whole of Alabama and Mississippi. He subsequently went secretly over to London, and on his return, he inquired of the American Commissioners as to their claims to the fisheries; and when he was informed that the United States would insist on an equal right to them with Great Britain, he recommended them to confine their claims to the fisheries on the coast. The avowed object of this advice was to remove, as far as practicable, all impediments to an early peace.

An intercepted letter from M. Barbois, the secretary of legation in the United States, to M. de Vergennes, confirmed the opinion which the American envoys entertained of the wishes of the French Court. Barbois anticipated that England, from a natural regard to her own interest, would seek to exclude the Americans from the Newfoundland fishery; and, therefore, he said, it would be prudent in France to make an early declaration to the Americans that their pretension was unfounded, and that His Majesty did not intend to support it.

It thus being apparent that France was not inclined to favor the claims of the United States on the very important points of the fisheries, the extent of their territory to the West, and the navigation of the Mississippi, as soon as Oswald received his new commission, which recognised the United States as a sovereign power, the American Commissioners felt themselves justified in proceeding to a separate negotiation with Oswald, without consulting the French minister, or even communicating the fact to him, notwithstanding their express instructions to the contrary. They, however, stipulated, that no

negotiation was binding without the concurrence of France; and a preliminary treaty was accordingly agreed on. This treaty was immediately sent to England, where it received several modifications; and was returned for further negotiation.

Compensation to American loyalists, which had not been provided for, was earnestly pressed by the British Commissioners; but it was urged by the American envoys that this subject was beyond the control of Congress, and belonged exclusively to the individual States. It was finally agreed that Congress should recommend to the several States the restoration of the property which had been confiscated. It was at the same time stated by the American Commissioners as their belief, that the recommendation would be disregarded.

The terms of the preliminary treaty were finally adjusted, and it was signed on the thirtieth of November, 1782, by Richard Oswald, on the part of Great Britain; and by Adams, Franklin, Jay, and Laurens, on the part of the United States; with the stipulation that the treaty was not to be concluded until the terms of peace should be agreed upon between Great Britain and France. There was a secret article which enlarged the limits of Florida, in case, on the final pacification, Great Britain should retain that colony.

A few days afterwards, Dr. Franklin communicated to the French minister what had been done. The Court of France finding their attempts to influence the negotiation thus foiled, and that the American Commissioners had carried on a separate negotiation, notwithstanding their assurances to the contrary, appeared to be at first greatly dissatisfied; and, in guarded terms, M. de Vergennes complained of this want of good faith. Dr. Franklin, with consummate address, succeeded in removing

this ill-feeling. He laid a stress on the fact that a peace with the United States could not take place until one was concluded between Great Britain and France: he frankly admitted that the American envoys had been wanting in *bienseance*: he disclaimed all intention of disrespect to the King, whose benefits and favors to America, he said, were as much felt by all his countrymen as they were by himself: he trusted that their joint work, when brought to so glorious a termination, would not be ruined by a mere indiscretion, especially as he understood the English to boast that they had already produced a division between France and the United States.

The discontent first felt against the United States was now converted into an increased resentment against Great Britain, and a determination to frustrate her insidious purpose of exciting jealousy between France and America. In furtherance of this object, Vergennes not only accepted Dr. Franklin's apology, but actually granted to the United States a new loan of six millions of livres. When we consider the financial difficulties which were even then experienced by France, this loan, so very acceptable and opportune to the United States, affords a striking proof of Dr. Franklin's talents as a negotiator. But it must be also mentioned that, in addition to the French minister's anxious desire for peace, he was well aware that when the promise of the United States to carry on a *joint* negotiation had been used to postpone their interests to the interests of France, those States were absolved from a promise thus sought to be perverted from its original purpose.

The negotiations of Great Britain with France, which had been for some time going on, were terminated subsequently by a treaty of peace; after which the prelimi-



nary treaty made with the United States required only the final ratification of their respective governments.

There having been, in the meanwhile, a change of ministry in England, Mr. Oswald was recalled, and David Hartley was appointed in his place. Hartley endeavored to effect some change in the treaty in favor of the loyalists, and also to procure some commercial advantages to Great Britain. The United States, on the other hand, wished to modify the provision made in favor of British creditors; but all these proposed alterations failed,<sup>1</sup> and the definitive treaty did not vary from the preliminary, except in the secret article, which the intervening treaty between Great Britain and Spain had rendered unnecessary, and inoperative.

By this treaty, the national independence of the thirteen United States was formally acknowledged. Provision was made for settling the boundary line between them and the British possessions in Canada and Nova Scotia. The right to the fisheries was secured to the United States to the extent that they had heretofore possessed, except that they were not allowed to dry their fish at any settled part of the British dominions, without the consent of its inhabitants: creditors were to meet with no legal impediment to the recovery of their debts in either country: Congress was to recommend to the Legislatures of the States to restore the property which had been confiscated, of such British subjects as had not borne arms against the United States; with some

<sup>1</sup> In December, 1782, the Legislature of Virginia requested Congress, through their delegates, not to agree to a restitution of the confiscated property; and a similar objection was made by the Legislature of Pennsylvania. Congress also, in May, instructed their ministers to make some qualifications and explanations on this clause in the preliminary treaty.

other provisions in favor of the same class : all prisoners were to be set at liberty : no negroes, or other property, were to be carried away by British armies or fleets, and all public records and papers to be restored : the navigation of the Mississippi was to be free to both countries.

The definitive treaty was not signed at Paris until the third day of September, 1783 ; and it was ratified by Congress on the fourteenth of January, 1784.

Soon after the army had gone into winter-quarters, in 1782, they petitioned Congress to make provision for the money due to them, and for the commutation of the half-pay by a sum in gross, which Congress had, in October, 1780, stipulated to pay them. The sentiments of the members widely differed respecting the claims of the army. While some were for liberally rewarding their services and their sacrifices, and, at all events, favored a scrupulous compliance with the public engagements by all feasible means, others viewed those claims with a certain degree of jealousy, as in conflict with the impoverished condition of the country, and even with some of the cherished principles of republican government. This sentiment was not unknown to the army, and so increased its general discontent, that it wanted only a favorable occasion to manifest itself.

It was known, early in March, through the committee of officers sent to Congress from the army, that their requests had not been granted. On the tenth of that month there appeared at Newburgh, in New York, then the head-quarters of the army, an anonymous invitation to the general and field-officers to meet on the following day, with a suggestion, that an officer from each company, and from each medical staff would be expected. The avowed purpose of the meeting was to consider their

late application to Congress, and to devise measures for the redress of their grievances.

On the same day an eloquent and inflammatory anonymous address to the army was circulated. The Commander-in-chief was still in camp, where he had been led to remain, not with a view to any military duty, but to be in readiness to prevent mischief growing out of the discontents of the army, of which he was well apprised. In a general order, adverting to the irregular invitation, to which he said he was convinced they would not attend, he invited them to assemble on the fifteenth of the month, to hear the report of the committee sent to Congress, at which time they could devise what further measures they would pursue to obtain justice.

The next day a second anonymous address to the army appeared, in which the author affected to consider the Commander-in-chief favorable to his views.

On the fifteenth, the proposed convention of officers assembled, and General Gates presided. He was then addressed by General Washington, who severely rebuked the author of the anonymous addresses, and particularly condemned his advice to the officers in case justice was longer withheld; which was, if the war continued, to remove to some unsettled country, leaving their own undefended; and in the event of peace, "never to sheathe their swords until they had obtained complete and ample justice." The General accounted for the delays of Congress, from the numerous demands on the attention of that body, and the infinite difficulties encountered. He spoke of his determination to aid the army in preferring its claims on the country; and he besought them, in the earnest language which only purity of intention, and fervent love of country could have dictated, to refrain



from any measures that would sully their past glory, and be ruinous to those liberties which they had so long and so nobly labored to establish.

Resolutions were then offered and unanimously passed. They declared,

That from the high motives which had first caused them to take up arms, they never would be induced to depart by any circumstances of personal distress or danger.

That the army having an unshaken confidence in the justice of Congress, was confident it would not disband them until their accounts were liquidated, and funds were provided for their payment.

That the Commander-in-chief be requested to write to Congress, and to request of that body its early decision on their recent petition.

That the officers of the army view with abhorrence, and reject with disdain, the infamous propositions contained in a late anonymous address.

General Washington accordingly wrote a letter to Congress, in which he pleaded most urgently in behalf of an army whose acts and sufferings in defence of human rights and liberties, he said, had never been equalled; a course which he could pursue with more propriety and effect, since, having refused to receive any pay himself, beyond his expenses, he had no personal interest in the question.<sup>1</sup>

It appearing to some of the members of this body that their motive for sitting with closed doors no longer existed, they proposed that the doors should be thereafter open, except when otherwise ordered; but the

<sup>1</sup> VIII. Journals of Congress, page 234.

motion for that purpose was rejected by a very large majority.

Their attention was now turned to the subject of their finances. A committee, consisting of Messrs. Gorham, Hamilton, Madison, Fitzsimmons, and Rutledge, who had been appointed "to consider the means of restoring and supporting public credit, and of obtaining from the States substantial funds for funding the whole debt of the United States," brought in their report on the eighteenth of March; after which various amendments to the report were proposed, and lost, until, on the first day of April, Mr. Hamilton moved a reconsideration of a motion "to propose an alteration in the articles of Confederation by which the rule for determining the quotas of the States in contributing a common revenue, should be not according to the values of their respective lands, but according to the number of their free inhabitants, and three-fifths of all other persons;" which motion prevailed, and the proposed change was adopted by every State, except Massachusetts (which was divided) and Rhode Island.

On the eighteenth of April, the report was adopted. According to this report, Congress recommended to the States to invest that body with the power of levying duties on imported goods—to be specific on wines, spirits, sugar, tea, and coffee; and five per cent. ad valorem on all other commodities—to be applied exclusively to discharge the debts contracted for supporting the war, to continue for twenty-five years, and to be collected by officers appointed by the States.

That the States should be further recommended to provide efficient revenues, and to appropriate them to the discharge of the like debts, to the amount of their respective proportions of one million five hundred thousand dollars: and the quotas which each State should

pay, until the rule established by the Confederation could be executed, were then stated.<sup>1</sup>

These resolutions were not, however, to be carried into effect until every State had acceded to them.

It was further recommended to the States to make or complete cessions of western lands, according to former recommendations of Congress.

This act received the votes of all the members except four, which were one from Massachusetts, two from Rhode Island, and Mr. Hamilton from New York.<sup>2</sup>

On the twenty-sixth of April, a committee, consisting of Messrs. Madison, Ellsworth and Hamilton, reported an address to the States from the Congress, which they had been ordered to prepare to accompany their plan for providing the means of supporting the public credit.

This address<sup>3</sup> begins with saying that now, when the war is terminated, it is the duty of Congress to provide for the debts which that war had created, and to look

<sup>1</sup> The quotas of the several States were as follows :

New Hampshire...	\$52,708	Delaware.....	\$22,443
Massachusetts.....	224,427	Maryland .....	141,517
Rhode Island.....	32,318	Virginia .....	256,487
Connecticut .....	132,091	North Carolina.....	109,006
New York.....	128,243	South Carolina.....	96,183
New Jersey.....	83,358	Georgia .....	16,030
Pennsylvania.....	205,189		
		Total .....	\$1,500,000

<sup>2</sup> In a letter to the Governor of New York, Hamilton states his reasons for voting against the act, which he thought did not go far enough to sustain public credit. But he advised New York to give the power proposed by the act.

<sup>3</sup> This address is mentioned by Mr. Pitkin as if it was drawn by Mr. Ellsworth, and by Mr. Hildreth as if Hamilton had been its author. Mr. Madison was chairman of the committee, and might therefore not only be supposed to have written the address, but the fact is expressly stated by Mr. John C. Hamilton in the biography of his father.



forward to the means of obviating dangers which may interrupt the harmony and tranquillity of the Confederacy.

The amount of the debts of the United States they stated to be forty-two millions of dollars, the annual interest on which is two millions four hundred and fifteen thousand nine hundred and fifty-six dollars. Funds at least to this amount must be certainly provided. They give their reasons why they have recommended a different mode of raising revenue from that provided by the articles of Confederation; and they especially urge the advantages of a tax on imports. From a regard to the objections that have been made to this mode of raising revenue, they say that Congress had proposed to limit its duration to twenty-five years. The revenue expected to be derived from this source is estimated at something more than nine hundred thousand dollars, and the residue of the interest on the debt is to be provided by the States in such modes as they may judge most convenient. The two modes have been comprehended in one enactment of Congress, as they both are equally necessary to a complete provision for the public debts.

For the future discharge of the principal of the debt they rely on the natural increase of the revenue from commerce; on requisitions to be made, as circumstances may dictate; and on sales of vacant territory. The reasons given for changing the rule by which their common burdens are to be distributed among the States, from the value of the lands in each State, to the numbers of their people, are, that the latter rule is more easy, less expensive, and affords less occasion to complain of injustice.

The committee dwells on the strong claims of the public creditors, which are arranged under four heads: first, to an *ally*, who, to his loans, and the succor from his

arms, had added liberal donations; second, to foreign individuals, who were the first to give this token of their confidence in the justice of the United States, and who are members of the republic which was second in recognising these States; third, is that "illustrious and patriotic band" which constitute the army, to whose bravery the country owes so much, and who even now ask only for a portion of what is due them; and, fourth, those of the citizens who have lent their funds to the public, or have received transfers from others.

A strong appeal is made to the justice, honor, and gratitude of the nation, who are reminded of what had been "the pride and boast of America," that the rights for which she contended were the rights of human nature; that the citizens of the United States were responsible for the greatest trust ever confided to a political society, as by the exercise of justice, good faith, honor, and gratitude, the cause of liberty would acquire a dignity and lustre never before enjoyed.

Among the papers appended to the address was a letter to the Governor of Rhode Island on the refusal of that State to consent to a duty of five per cent. on imports for the benefit of the Confederation. This paper, which was drawn by Alexander Hamilton with his accustomed ability, answered all the objections which Rhode Island had urged against the proposed impost, the principal of which was one founded on the common fallacy, that Rhode Island being a commercial and largely an importing State, would pay more than its proportion.

The estimate of the amount of dutiable articles consumed assumes what now appears to be a very meagre consumption, after making ample allowance for the

great increase of population which has since taken place. Thus :

2,000,000	gallons of spirits.....	$\frac{2}{3}$ gal. to 1 person.
100,000	“      Madeira wine.....	1 “      30 persons.
600,000	“      other wine.....	1 “      5 “
300,000	pounds of bohea tea.....	1 lb. to 10 “
25,000	“      other teas.....	1 “      120 “
75,000	cwt. of sugar.....	$2\frac{1}{2}$ “      1 “
200,000	pounds of coffee and cocoa.....	1 “      15 “
2,000,000	gallons of molasses.....	$\frac{2}{3}$ gal. to 1 “

On the thirtieth of May, Congress, reciting those clauses in the preliminary treaty which stipulated that the confiscated property should be restored, that there should be no future confiscations, and no legal impediments to the recovery of bona fide debts, required of the States to remove all obstructions to the faithful execution of the before-mentioned provisions; and that it be recommended to the States to take into serious consideration the fifth article, which provides for the restitution of confiscated property.

The discontents of the army again broke out in mutiny, and the mutineers were again from the State of Pennsylvania.

There having been some delay in the payment of a small sum ordered to be advanced to them, eighty men of some new levies at Lancaster set off for Philadelphia; and, on their march, were joined by others, to the number of three hundred, who surrounded the house in which Congress was sitting, and presented their claims in a threatening and insulting tone; on which Congress passed a resolution that the Executive of Pennsylvania be informed of the insult to the authority of the United States, and that measures should immediately be taken for supporting the public authority: that the committee



confer with the Executive authority of Pennsylvania, and if there was no satisfactory ground for expecting adequate and prompt exertions to support the dignity of the Federal Government, that the President be directed to summon Congress to meet at Trenton or Princeton: that the Secretary of War communicate to the Commander-in-chief the disposition of the said troops, that he may adopt measures for suppressing all disturbance.

As soon as it was known that the mutineers were on their way from Lancaster to Philadelphia, a committee of Congress appointed for that purpose instructed Major Jackson to endeavor to prevail on them to return, and to point out to them the impropriety of their conduct, and the danger they incurred: that if they persisted in coming to Philadelphia, the earliest notice of their purpose should be given.

The committee appointed to confer with the Executive of Pennsylvania—consisting of Mr. Hamilton and Mr. Ellsworth—having had a conference with the Executive Council, learnt from them that the militia of the State were not disposed to act against the mutineers, and were, moreover, ill provided for service. The Executive refused to give their answer in writing, that not being, they alleged, their ordinary practice.

In this state of things, the committee advised the President to summon Congress to meet at Princeton or Trenton.

The Commander-in-chief immediately ordered General Howe, with fifteen hundred men, to Philadelphia, to suppress the mutiny. When Howe arrived, some of the mutineers had been arrested for trial by a court-martial. They were found guilty, but were subsequently pardoned.

The public authorities of New Jersey professed themselves ready to support the authority of Congress, and

the Faculty of Princeton College offered it the use of the College for their deliberations. The people of Trenton made a similar tender of their services in support of the authority of Congress, for which they also received the thanks of that body. It met at Princeton in June.

It was in consequence of the insult from those mutineers, that Congress declared it expedient to provide a place for their meeting, which should be under their exclusive control. As soon as this determination was known, an emulation arose among the Middle States to provide a permanent seat for that body within their respective territories; and offers were made from New York, New Jersey, Pennsylvania, Delaware, and Maryland, to cede a district sufficiently large for that purpose. This subject long afterwards excited a lively interest in the contending States, and the subject continued undecided until after the new Constitution went into operation, when it was settled by compromise.

The Legislature of Pennsylvania, in August, passed unanimous resolutions, inviting Congress to return to Philadelphia, and there continue until they had determined on the place of their permanent residence; assuring them of adequate support and protection, and that, being disposed to render the permanent residence of Congress in the State commodious and agreeable, they requested that body to define what jurisdiction they deemed necessary to be vested in Congress. To this application Congress made no formal reply.

If the unsatisfied claims of the army threatened to be a source of civil strife, the unsettled western lands proved to be a source of more protracted discordance among the States. To these dissensions we will now advert. We shall more highly estimate the value of our political union

by adverting to the shallows and straits it had to pass, before it reached its present haven of safety.

All of these lands, to the Mississippi, were claimed by the different States to which they were severally attached, under their respective royal charters; and Virginia, moreover, claimed the country between the Ohio, the Lakes, and the Mississippi also by right of conquest, in the expedition conducted by George Rogers Clarke, in the year 1779.

The States which asserted claims to these unsettled lands were Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina, and Georgia. Those, whose limits being more strictly defined, had no such claims, were New Hampshire, Rhode Island, New Jersey, Pennsylvania, Delaware, and Maryland.

In those early charters which extended the territory of the grantees to the Pacific Ocean, the grants were considered to confer only a right of jurisdiction, and of pre-emption from the Indians, and not the right of soil, which was supposed to remain in the Indians, the original proprietors and present occupants; and the right of purchasing from them was held to belong exclusively to the sovereign, who sometimes made special cessions of the power, and sometimes exercised it himself, and then made grants, in small portions, of the soil thus purchased, by the way of public bounty, or by a regular system of sale.

As soon as the States had a prospect of independence, this diversity of circumstances gave rise to a diversity of views and interests with regard to these unsettled and ungranted lands; and while some of them maintained that the right to the pre-emption of these lands having been vested in the British Crown, they would, on a successful issue of the contest, be the common property of



all; the other States within whose chartered limits such lands lay, considered that the right to pre-emption being a consequence of the right of sovereignty and jurisdiction, such right of pre-emption, as well as every other sovereign right, would pass to them severally by their independence.

The claim asserted by Virginia, comprehending the present States of Ohio, Indiana, and Illinois, Michigan, and Wisconsin, being so much greater than the claims of all the other States, were chiefly regarded in this controversy; and one of the clauses in the articles of Confederation, as proposed in 1777, having provided that "no State should be deprived of territory for the United States, this provision was held to sanction the claims of the States" to their western lands, and was so interpreted by the votes of a majority. This diversity of interests among the States therefore created an impediment to the adoption of the articles of Confederation.

In June, 1778, it was proposed to give the United States power to appoint Commissioners to determine the boundaries of those States which claimed to the Pacific, and only the five States of Rhode Island, New Jersey, Pennsylvania, Delaware, and Maryland voted for it. A further modification was subsequently proposed, and in like manner rejected.

But the States which claimed these lands were subsequently induced to cede them, for the sake of effecting the adoption of the articles of Confederation by all the States; and the cession was the more readily made, because it was foreseen that the ceding States could not permanently or very long retain jurisdiction over those portions of their respective territories which were at once at a great distance from the seat of government, and were large enough to become States themselves. The

separation of Vermont from New York and New Hampshire was already manifest, and that of Kentucky from Virginia, and of Tennessee from North Carolina, soon after indicated.

The State of Maryland, in December, 1778, aware of the claims of Virginia, urged with great earnestness, in the instructions to her Delegates in Congress, that such claim was not only contrary to the principles of justice, but would be dangerous to the independence and welfare of Maryland. This paper was followed by a remonstrance on the part of Virginia, and a vindication of her rights.

In the following year, the petition of a company of land speculators, called the Vandalia Company, stated that they had obtained a grant of lands from the Crown, in 1768, in the country north-west of the Ohio, which extinguished all claims of Virginia to the said lands; yet that State had taken steps to dispose of those lands. They ask the interposition of Congress, against which interposition Virginia strongly remonstrated.

In February, 1780, the State of New York, for the avowed purpose of removing objections to the Confederation, empowered her Delegates to restrict her western boundaries by such lines as they should deem expedient, both as to jurisdiction and right of soil; and that the land thus ceded should enure to the benefit of the United States.

This act of the New York Legislature, the instructions of Maryland to her Delegates, and the remonstrance of Virginia, were all referred to a committee of Congress, whose report was adopted the sixth of September of that year. The committee state that the conflicting views of Maryland and Virginia involve questions, of which it was thought prudent to decline the discussion, when the

articles of Confederation were first debated; and that the same considerations still exist. They, however, press upon the States which can remove the embarrassment, "a liberal surrender of a portion of their territorial claim," the policy of which they strongly urge;<sup>1</sup> and Maryland is also earnestly requested to authorise her Delegates to sign the Confederation.

A few weeks later—the tenth of October—Congress passed a resolution,<sup>2</sup> that the lands ceded to the United States should be disposed of for the common benefit, be laid off into States not less than one hundred, nor more than one hundred and fifty miles square, be formed into republican States, which were admissible into the Union; and that certain expenses in defending or acquiring the ceded territory were to be reimbursed to the States which had incurred them.

In compliance with this recommendation, Virginia, in January of the following year,<sup>3</sup> passed an act for ceding all its territory north-west of the Ohio.<sup>4</sup> Connecticut had, in October, 1780, passed a resolution respecting the cession of her western lands; and on the thirty-first of January, 1781, that cession, together with those of New York and of Virginia, were referred to a committee of seven.

On the twelfth of February, the Delegates from the State of Maryland laid before Congress an act of the State of Maryland, authorising her Delegates to sign the articles of Confederation.

On the first of March, 1781, the Delegates from the State of New York made the cession which the act of their Legislature of the preceding year had authorised them to make. But the Delegates had previously executed

<sup>1</sup> VI. Journals of Congress, page 279.

<sup>2</sup> Ibid. page 325.

<sup>3</sup> January 2, 1781.

<sup>4</sup> VIII. Journals of Congress, page 355,



another deed, in which they recited that the act of cession made by Virginia stipulated that the United States should guarantee to that State the boundaries of the territory reserved for her future jurisdiction: they therefore declare that the cession they were then about to make should not be absolute, unless the boundaries reserved for New York were in like manner guaranteed.

On the same day, the Delegates from the State of Maryland signed the articles of Confederation; but they at the same time declared that they did not relinquish any right or interest that Maryland, with the other Confederated States, had in the "back country;" but claimed the same as fully as had been previously done by their Legislature: and further, that no article in the Confederation could or ought to bind Maryland, or any other State, to guarantee any exclusive claim of any particular State to the soil of the said back lands.

By this act, the ratification of the articles was complete; eleven of the States having ratified them in 1778, Delaware in 1779, and Maryland in 1781.

The committee of seven made their report respecting the ceded lands on the first of May, 1782.

They advise the acceptance of the cession made by New York, and assign as reasons for their recommendation, that those lands once belonging to the Six Nations were under the protection of New York for one hundred years, which was not only duly recognised by the British government, but also by the neighboring colonies of Massachusetts, Connecticut, Pennsylvania, Maryland and Virginia.

They earnestly recommend Massachusetts and Connecticut to release to the United States their claims to the aforesaid territory.

They cannot, consistently with the interests of the

<sup>1</sup> For articles of Confederation, see Appendix No. III.

United States, accept of the cession proposed by Virginia, or guarantee the tract claimed by her in her act of cession — assigning as reasons, that all the lands Virginia has thus ceded are within the claims of Massachusetts, Connecticut, and New York, as part of the territory of the Six Nations; as are also those lands which she requests to be guaranteed: and further, because a large part of the ceded lands are westward of the west boundary line of Virginia, as established by the King in council: because a part of the same lands have been legally sold and conveyed away before the Declaration of Independence, by persons claiming the absolute property: because, in the year 176—, a part was set apart by the Crown for a separate government and colony: and, lastly, because the conditions annexed to the cession are incompatible with the honor, interests, and peace of the United States.

They therefore earnestly recommend to Virginia to reconsider their cession, and to make it consistent with their former acts under the royal government, without any condition whatever.

They say they have conferred with the agents for the Indiana, Vandalia, Illinois, and Wabash Companies; they think, if the lands be finally ceded to the United States, the purchases made by the Indiana Company should be confirmed, and that, for the purchases by the Vandalia Company, the grantees be reimbursed the purchase-money and charges, and that the petition of the Illinois and Wabash Companies be dismissed, as they purchased of the Indians without any authority from the government. They at the same time recommend that the right of purchasing lands of the Indians beyond the bounds of any State be exclusively in Congress: that Congress may form new States of the ceded lands, not to exceed one hundred and thirty miles square: that in such new States

engagements to the officers and soldiers, and the rights of settlers, shall be confirmed: and that all reasonable expenses incurred in conquering and defending the lands in those States shall be paid; and all right to the soil, except it has been purchased of the Indians by public treaty, shall be disclaimed.

Various attempts were made by the friends and opponents of this report, from time to time, to amend it, without success, until the sixth of September, 1782, when a member from New Jersey offered several resolutions, declaring that cessions of the western territory, in conformity with the recommendations previously made by Congress would be "an important fund for the discharge of the national debt;" that, therefore, it be recommended to the States having claims to western lands to make such cessions; or, if already made, and not in conformity with the terms prescribed by Congress, that they reconsider such cessions: that if this recommendation be complied with, no determinations of the States relative to private property in any such lands shall be reversed or altered without their consent, unless where the ninth article of the Confederation shall render it necessary:<sup>1</sup> which resolutions were adopted — New Jersey, Virginia, South Carolina, and Georgia dissenting — and a committee of five<sup>2</sup> was appointed to consider them.

The committee made a report on the twenty-fifth of September, which simply recommended the adoption of the four propositions previously submitted. But the report was negatived by the votes of the four Southern States.<sup>3</sup>

<sup>1</sup> VII. Journals of Congress, page 455.

<sup>2</sup> Witherspoon, Madison, Rutledge, Osgood, and Montgomery.

<sup>3</sup> VII. Journals of Congress, page 482.



On the twenty-ninth of October, 1782, Congress accepted the cession made by New York on the first of March, 1781.

On the fourth of June, 1783, Congress referred so much of the report of the committee of the first of May, 1782,<sup>1</sup> as relates to the cession of Virginia, to a committee of five, who were Rutledge, Bedford, Carroll, Higginson, and Wilson.<sup>2</sup>

On the twentieth of June their report was acted on. The Delegates from New Jersey submitted a remonstrance of the Legislature of that State.

They express their surprise that the subject of the cession by Virginia is to be again acted on, after the late recommendation made by Congress respecting that cession; they regard the claims of their State to its proportion of all vacant territory as incontrovertible; they express their dissatisfaction with the terms of the cession made by Virginia; request that Congress will not accept it, and urge that State to a more liberal surrender.

The subject was resumed on the thirteenth of September, when, the report being amended, the Delegates from Maryland referring to the limits of the United States by the treaty of peace, and to the claims of all the States to the unsettled western territory, offered a resolution, that a committee be appointed to report the territory lying without the boundaries of the individual States, and the most eligible portions of the same for one or more independent States, and the establishment of a land office;<sup>3</sup> which resolution was rejected.

The report of the committee, as amended and passed, states the eight conditions on which Virginia had made the cession.

<sup>1</sup> VII. Journals of Congress, page 360.

<sup>2</sup> VIII. Journals of Congress, page 276.

<sup>3</sup> Ibid. page 354.

They comment on each of those conditions in succession, and report their views on each.

They say that the first, laying off the ceded territory into States, is provided for by the act of Congress of October, 1780.

That to comply with the second condition, in conformity with the act of the tenth of October, three Commissioners should be appointed by Congress and Virginia, to ascertain the expenses incurred by that State, according to the provisions of the act of Congress.

They approve of the third, fourth, fifth and sixth conditions, which provide for the protection of the French and Canadian settlers; for the bounty to George Rogers Clarke and his associates; for making good, on the north-west of the Ohio, any contingent deficiency of lands reserved, they provide lands on the south-east of that river; and that the ceded territory shall be a common fund for all the States.

The seventh condition, declaring certain purchases and grants void, they consider improper—the sixth condition being sufficient on this point.

The eighth condition, guaranteeing to Virginia the lands within the boundaries named, they object to as either unnecessary or unreasonable.

The Legislature of Virginia, at its next session, passed an act, which, after referring to the act of Congress of the sixth of September, 1783, declared that though the terms in which Congress therein declares it will accept the cession of Virginia “do not come fully up to the propositions made by the Commonwealth of Virginia,” yet they are considered to approach so nearly to those propositions, as to induce the State to accept them, in the confidence that Congress will press upon other States having large claims to waste and uncultivated territory, to make

equally liberal cessions of them. They therefore authorise their Delegates in Congress to convey by deed all the right of Virginia both as to soil and jurisdiction of the country north-west of the Ohio, on the conditions therein specified.

In consequence of which act, the Delegates of the State — Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe — convey to the United States all the right of Virginia to the said north-west territory.

It was then moved that Congress was ready to receive the deed in conformity with this act of Assembly of Virginia. But a proviso was moved, that the acceptance of this cession should not be considered to imply any decision or opinion of Congress respecting the validity of the claim of Virginia; but the motion received the votes only of Rhode Island, New Jersey, and Pennsylvania, and was, of course, rejected.

The question of acceptance was finally carried by all the votes present, except one from South Carolina; when the deed was executed by the Delegates from Virginia, and recorded among the acts of Congress: and thus was interposed that spirit of conciliation and compromise which has so often proved the guardian genius of the United States, without which salutary influence diversities of interests, and even of opinion, must often have produced, among so many independent members, interminable discord, and perhaps fatal strife.

In the month of April, Sir Guy Carleton having arrived at New York to take command of the troops there, sent off a number of the negroes which had been brought from South Carolina and the other Southern States; and subsequently speaking of this in a letter to General Washington, he said he learnt, with concern, that in so doing he had departed from the terms of the



treaty. He justified the act on the ground that he found those people free when he took the command, and he did not conceive he had the right to prevent their going whither they pleased. He had, however, taken the precaution to have the name of every negro, and also that of his master registered, as well as his value. General Washington, in his reply, said it was not for him to decide how far this was an infraction of the treaty; but it was his private opinion that the measure was against both the spirit and letter of that instrument.

Congress directed that this correspondence should be transmitted to their foreign ministers, who were instructed to remonstrate against it to Great Britain, and to take measures for reparation; and that the Commander-in-chief should continue his remonstrances to Sir Guy Carleton.

Congress having requested the attendance of the Commander-in-chief, a committee of five members was appointed to confer with him on the peace arrangement, and to report the proper manner of receiving him; and a house was provided for him.

On the same day they resolved to erect an equestrian statue to him of bronze, at the place where the residence of Congress should be established. They also prepared devices and an inscription to be placed thereon.

On the twenty-sixth of August, General Washington having been introduced by two members, was addressed by the President in terms strongly expressive of his merits, as well as of the grateful sense entertained of them by Congress; and adding, that his country still needed his services in forming its peace establishment.

To this address he becomingly replied: he could not hesitate to comply with their request, until the definitive treaty of peace, or the final evacuation of the country by

the British forces; after either of which, he should ask permission to retire to private life. He concluded with a devout expression of thanks to God, and his grateful acknowledgments to his country for the uniform support he had received in every change of fortune, and for the distinguished honors conferred on him by Congress.

The individuals who had been tried for the late mutiny, and convicted, were pardoned by Congress on the thirteenth of September, they not appearing to have been the principals in the mutiny, and no lives having been lost, and no property destroyed.

On the twenty-fifth of September, Congress entered on their journal a letter from the Legislature of Massachusetts, addressed to Congress, in which they complain of the grant of half-pay for life to the officers of the army, the commutation of the same for five years' whole pay, and also of the salaries allowed to the civil officers of government; to which a committee reported a reply in defence of those measures, which was adopted by a majority of the States.

On the same day, the treaty negotiated at Paris with Sweden, by Dr. Franklin, was ratified by Congress.

In October, the sense of Congress was taken on the State to be selected for the "residence" of that body, when a majority voted against all the thirteen States in succession.

Propositions in favor of particular States the next day were in like manner rejected.

It thus seeming impracticable to agree on any one place for the permanent residence of Congress, on the eighteenth of October, Mr. Gerry, of Massachusetts, proposed that two places should be selected, where they might meet alternately—one near the Falls of the Delaware, and the other near the Falls of the Potomac—at

which places the right of soil, as well as jurisdiction in the United States, should be procured.

After much debate, and various amendments, this troublesome subject, addressing itself to the local interests and pride of individual States, was settled, on the twenty-first of October, for the alternate meeting of Congress at the two places mentioned; and it was provided that, until suitable buildings were erected at those places, they should meet alternately at Trenton and Annapolis; to which latter place the President was to adjourn Congress on the twelfth of November, to meet on the twenty-sixth of that month.

On the thirty-first of October, an audience was given to P. J. Van Berkel, minister from the States General of the United Netherlands; and the contract made by Dr. Franklin for the loan of six millions of livres to the United States was ratified. Mr. Van Berkel made an address of compliment and congratulation, and delivered a letter from the States General to Congress; to which Mr. Boudinot, the President, made a suitable reply.

The British prisoners surrendered with Burgoyne, as well as those who capitulated at Yorktown, having been marched to New York, they were there embarked for Europe, and the city was entirely evacuated by the British on the twenty-fifth of November, 1783.

It appeared that, since Congress was no longer pressed by the necessity of providing for the exigencies of war, the attendance of members had become so relaxed, that there was often not a quorum, and at best there were seldom more than nine States represented; so that on the most important questions, in which the concurrence of that number of States was required, there could be no decision unless the States present were unanimous. A committee appointed for the purpose made a report



reciting the preceding facts, and urging an earnest recommendation to all the States to take effectual measures for being fully represented in Congress; to which report Congress agreed: and further provided, that a daily report of the attendance of members should be taken, and sent to the Executive of each State.

Notwithstanding the inconvenience which had been thus experienced, and the remedy provided for its correction, the irregular attendance of the members was unchanged; and though Congress was required to meet at Annapolis on the twenty-sixth of November, there was not a quorum until the thirteenth of December, when nine States were found to be represented: after which there never were more than seven States present until the fourteenth of the succeeding month, and several times subsequently there was not a quorum.

The British troops having evacuated New York on the twenty-fifth of November, General Washington, attended by some of his principal officers and the American troops not yet disbanded, the Governor and other civil officers of New York entered the city. This great event was there celebrated on the first of December; and on the fourth, the Commander-in-chief took a leave, at once solemn and affectionate, of his companions in arms. He then proceeded to Philadelphia, where he remained four days to settle his public accounts, with that scrupulous exactness and satisfactory evidence for which he had ever been distinguished; after which he proceeded to Annapolis. Here, at a public audience, he made a formal surrender of that commission which, eight years before, he had received from Congress; prefacing it with a brief address, in which, adverting to his distrust of his abilities for so arduous a task, he said this was overcome by a confidence founded in the rectitude of the cause, the sup-

port of Congress, and the patronage of heaven. He took occasion to acknowledge the merits of the gentlemen attached to his person during the war; and he ventured to recommend to the favorable notice of Congress those who had continued in the service up to the present time. After commending the interests of the country to Divine protection, and taking a most respectful farewell of that august body under whose orders he had so long acted, he said he then took leave of "all the employments of public life."

The answer of the President, General Mifflin, was not merely courteous, but warm. Adverting to the difficulties of his country, on taking up arms, he said, "You have conducted the great military contest with wisdom and fortitude, invariably regarding the rights of the civil power through all disasters and changes: you have, by the love and confidence of your fellow-citizens, enabled them to display their martial genius, and transmit their fame to posterity: you have persevered, till these United States, aided by a magnanimous King and nation, have been enabled, under a just Providence, to close the war in freedom, safety, and independence, on which happy event we sincerely join you in congratulations.

"Having defended the standard of liberty in the new world; having taught a lesson useful to those who inflict, and to those who feel oppression, you retire from the great theatre of action with the blessings of your fellow-citizens: but the glory of your virtues will not terminate with your military command; it will continue to animate remotest ages." After promising to charge themselves with the interests of his confidential officers, and joining him in commending their country to Divine protection, they conclude with a prayer that his days might be as happy as they have been illustrious, and that heaven

would finally give him that reward which the world could not give.

This was the last scene of the Revolutionary drama, and it has been one of the four subjects of Trumbull's pencil, which have received the patronage of Congress, and now adorn the walls of the Capitol at Washington.

On this occasion, there were but seven States represented, in consequence of which a resolution was offered by Mr. Williamson, of North Carolina, that letters be forthwith sent to the Executives of New Hampshire, Connecticut, New York, New Jersey, South Carolina, and Georgia, informing them that the safety, honor and good faith of the United States required the immediate attendance of their Delegates; and that, among other important concerns, the ratification of the treaty of peace required the presence of nine States.

There being nine States present on the fourteenth of January, 1784, the definitive treaty was then ratified.

The great inconvenience which was still experienced from the non-attendance of the members, suggested a change in the rule which required only two members to represent a State. It was accordingly proposed and carried, that thereafter each State should be represented by at least three members.

Nothing can show more conclusively the feebleness and insufficiency of the powers then exercised by Congress, now that the war was at an end, than the hesitating or irregular attendance of members on its deliberations.

The thirteen former colonies of Great Britain in North America having thus achieved their independence, and taken their place in the family of nations, before we see the use they made of their newly-acquired sovereignty,



let us advert to the changes which time and a war of eight years had made in their condition.

In all of them there were constitutions and forms of government adapted to their new circumstances. In Connecticut and Rhode Island alone they found any further provisions unnecessary — the charters they had received from Charles the Second, in 1662, being sufficiently comprehensive, and sufficiently republican, for their present purposes. In all the other States there were new constitutions formed at different times from 1776 to 1780, which were adopted in the following chronological order :

In 1776 were formed that of New Hampshire, January fifth; of South Carolina, March twenty-sixth; of New Jersey, July second; of Virginia, July fifth; of Maryland, August fourteenth; of Delaware, September twentieth; of Pennsylvania, September twenty-eighth; and of North Carolina, December eighteenth.

In 1777, of Georgia, February fifth; and of New York, April twentieth.

In 1780, of Massachusetts, March second.

These agreed in the most material functions of government. They were all essentially republican, and recognised the source of all political power to be in the people. They all separated the legislative, executive and judicial powers. They all had single Executives, who were, in every instance, except that of Pennsylvania, called Governor: and they all vested the Legislative power in two Houses, except Pennsylvania and Georgia, which, however, subsequently followed the example of the other States.

The most important points in which they differed was in the greater or less extension of the right of suffrage, in the powers confided to the Executive, and in the tenure of the Judicial office.

They were all greatly impoverished by the united effect of the burdensome expenses of the war and of the diminution of their resources. Their foreign commerce and their fisheries were entirely suspended; and their agricultural products, mainly cut off from their accustomed foreign markets, yielded little or no profit to the land-holders, who constituted nine-tenths of the people. Some progress was of necessity made in manufactures, cut off as the country had been from foreign supplies; but there was neither the capital, nor the skill, nor the subdivision of labor which that species of industry required; and the raw material itself was often wanting. It afforded profitable employment to but a small part of the population.

The paper-money, which, in the first years of the Revolution, constituted the general currency of the country, had a great and a varied influence. It was at first an efficient, as well as cheap resource, and enabled the Congress to defray the expenses of war when they were without specie, or any sure and speedy means of obtaining it. Even after the currency had depreciated, as was evident in 1777, it still was a valuable auxiliary to a government without revenue, or the power of taxation.

But if it rendered these benefits to the American people in their collective capacity, it often proved most injurious to individuals. As the depreciation, after it began, continued steadily to advance, until the paper lost all value, every one was compelled to pass the money at a less rate than he had received it. In this way, it operated as a general tax, and the loss was, in a great measure, equalized. But between debtors and creditors the case was very different. When this money was used for the payment of debts, as it commonly was, from necessity as well as choice, the loss of the depreciation fell solely upon the

creditor class; and in this way many whose property had been sold on a credit, received not more than a half, or perhaps a fourth, or yet less, of what was justly due to them.

Such a state of things was also productive of moral mischief. It tended to unsettle men's notions of right and wrong; it familiarized them to injustice, and it held out temptations to perpetrate it. As soon as depreciation began, the more wary and sagacious part of the community, foreseeing that it must continue to increase with the still increasing quantity, were tempted to become purchasers of land and other property on a credit, from a confident expectation, that, however liberal the price then appeared, that price would be greatly reduced at the time of payment by the intermediate depreciation. At length, every one was desirous of parting with money whose value was gradually melting away; and thus an eager and restless spirit of traffic was evoked throughout the community.

In this way an undue thirst for gain was engendered, as well as a greater disregard for the means of gratifying it; and careful observers might perceive these effects long after their original causes ceased to operate.

The ordinary increase of the population had been little affected by the war, except that which was derived from immigration; and at the time of the peace, it must have somewhat exceeded three millions.

It was soon found that the war had only terminated one set of public cares and duties to give rise to another. The States were subjected to heavy debts, both as members of the Confederation, and in their separate character. They were required to regulate and protect their foreign commerce, and to provide a system of revenue and taxation adapted to their new wants, and to a state of peace.



The committee appointed to report a plan for the temporary government of the Western Territory, consisting of Mr. Jefferson, Mr. Chase, and Mr. Howell, presented a plan,<sup>1</sup> which, after various amendments, provided,

That so much of the ceded territory as is, or shall be purchased of the Indians, shall be divided into States by lines of latitude and other boundaries then designated; on which the settlers may establish a temporary government, by adopting the Constitution and laws of any one of the original States; and when their population reaches twenty thousand, they may be authorised by Congress to call a convention, and make a Constitution and government for themselves; but that both the temporary and permanent government be established on the following principles:

First. They are ever to remain a part of the United States of America.

Second. They shall be subject to all the articles of Confederation.

Third. They shall not interfere with the disposal of the soil by the United States, nor with the ordinances made by Congress to secure the title to such soil.

Fourth. They shall be subject to a part of the public debts by the same rule as the other States.

Fifth. That no tax shall be imposed on lands of the United States.

Sixth. That their respective governments shall be republican.

Seventh. That the lands of non-residents shall not be taxed higher than those of residents, before the admission of the new State to a vote in Congress.

That whenever any of the new States shall have a population equal to that of the least numerous State, it

<sup>1</sup> X. Journals of Congress, page 153.

may be admitted into the Union, with the consent, at present, of nine States; and that it be proposed hereafter, that wherever the concurrence of nine States is now required, two-thirds shall hereafter be necessary. Until such admission, the State may send a member to Congress, who shall have the right of debating, but not of voting.

That until they form a temporary government, measures for the preservation of peace and good order may be taken by Congress.

That the preceding principles shall be formed into a charter of compact, and shall stand as fundamental constitutions between the thirteen original States and each of the new States, unalterable but by the joint consent of Congress and the particular States.

The plan thus reported received the affirmative votes of every State present, except of South Carolina. Delaware, and Georgia were absent.

One of the fundamental principles proposed in the report had been,

“That after the year 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in punishment of crimes whereof the party shall have been convicted to have been personally guilty.”

But, on the motion of Mr. Spaight, of North Carolina, seconded by Mr. Reed, of South Carolina, it was rejected—all the States north of Maryland voting in favor of it; Maryland, Virginia and South Carolina voting against it; North Carolina was divided; Delaware and Georgia were unrepresented. Mr. Jefferson was in favor of it, but was outvoted by his colleagues.

It was only after the lapse of some years, as we shall find, that this subject was disposed of.

The foreign commerce of the States next engaged the attention of Congress. On this topic a committee, consisting of Messrs. Gerry, Reed, Williamson, Chase, and Jefferson, had been appointed, who made a report, in which they advised a recommendation to the State Legislatures, to vest in Congress for fifteen years a power to prohibit the importation of any commodities into the States, except in vessels belonging to, and navigated by, their own citizens, or the subjects of those foreign powers with whom the United States had treaties of commerce. As an amendment to this part of the report, it was proposed to extend the exception to those nations which admitted of a reciprocity in their trade with American citizens, and also to prohibit the subjects of any foreign State from importing into the United States goods that are not the produce or manufacture of such foreign State; but the amendment was lost.

The report, as agreed to,<sup>1</sup> after reciting that Great Britain had already adopted regulations destructive of the commerce of the United States with her West India Islands, remarks, that Congress have not the power of imposing similar restrictions, and that, without adequate powers of protection, their commerce must decline, and be finally annihilated. Congress therefore recommends to the States to give the power of protection already mentioned for fifteen years, and also the prohibition to foreigners to import any articles not the produce or manufacture of their State; provided that all acts of Congress made in pursuance of such powers should have the concurrence of nine States.

As the British navigation had been thus brought to bear on American commerce, they proposed to impose similar restrictions on British shipping and commerce.

<sup>1</sup> IX. Journals of Congress, page 186.



It also appeared, in a report from another committee, that if the commerce with England was circumscribed by the late regulations with that country, those with France were likely to be extended. By the exertions of La Fayette in behalf of the commerce of the United States, the French minister proposed to make L'Orient and Bayonne free ports, where the Americans might import and sell their tobacco, rice, lumber, and other products, on as favorable terms as any other nation.

It appearing that Mr. Jay, who had been associated with Dr. Franklin and Mr. Adams, for the purpose of negotiating treaties of commerce, was about to return home, he was elected Secretary for Foreign Affairs, and Mr. Jefferson was elected to supply his place as foreign minister.

On the seventh of May, the committee to whom the report on sundry letters from the ministers of the United States in Europe to Congress, had been referred, came to the following resolutions :

That it will be advantageous to the United States to conclude treaties of amity and commerce with Russia, the Court of Vienna, Prussia, Denmark, Saxony, Hamburg, Great Britain, Spain, Portugal, Genoa, Tuscany, Rome, Naples, Venice, Sardinia, and the Ottoman Porte.

That, in the formation of these treaties, the following points be carefully stipulated :

First. Each party to have a right to carry their produce in their own bottoms to the ports of the other, paying only such duties as are paid by the most favored nation, or to be mutually free.

Second. A similar intercourse with European colonies in America ; or with certain free ports in such colonies ; or if neither of the preceding, then for such colonies to bring their produce in their own bottoms to the United

States, and those States to carry their produce to such colonies.

Third. In all such treaties, the United States to be considered as one nation.

Fourth. In case of war, the merchants of belligerents resident in the dominions of the other to be allowed to collect their debts and remove their effects. Fishermen, cultivators, manufacturers, and other pacific classes, not to be molested by the armed force of an enemy; merchants and traders to pass unmolested, and privateering to be abolished.

Fifth. No article to be confiscated as contraband; they may be detained, and compensation made.

Sixth. Free ships to make free goods. No place to be considered as blockaded, unless a vessel sailing in or out of the port is exposed to imminent danger. Indemnification to the party stopped.

Seventh. The real estate of aliens to be sold by their representatives.

Eighth. That treaties of commerce be made for a term not exceeding ten years.

Ninth. These instructions to be regarded as supplementary to, and not as revoking those of October, 1783.<sup>1</sup>

That treaties of amity and commerce be entered into with Morocco, Algiers, Tunis, and Tripoli.

That a commission be issued to J. Adams, B. Franklin, and Thomas Jefferson, to negotiate such treaties; such commissions to be in force for a term not exceeding two years.

<sup>1</sup> The liberal principles recommended by the above resolutions are calculated to lessen the miseries of war to all who are engaged in navigating the ocean. The most important of them had been previously suggested by Dr. Franklin, but of a part Mr. Jefferson was the author.—See III. Secret Journals of Congress, page 484.

On the twenty-eighth of May, Congress passed an ordinance for the appointment of three commissioners to superintend the treasury department, to be styled the Board of Treasury.

The same day an ordinance for locating and disposing of the lands in the Western Territory was acted on.<sup>1</sup>

By its principal provisions, the ceded territory was to be laid off into States, and the lands divided into hundreds, of ten geographical square miles, by lines running due north and south, and others crossing these at right angles; and these hundreds subdivided into lots of one mile square, or eight hundred and fifty acres.

These lines to be run by surveyors appointed by Congress, and marked on the trees; and all water-courses, mountains, and other natural features, to be noted at their proper distances.

The report provides for the appointment of a Register, and prescribes his duties. It makes loan office certificates receivable in payment of the lands; and it guards against hasty and surreptitious grants. It is particular in saving to all officers and soldiers the lands previously granted to them.

This ordinance did not obtain the sanction of a majority of Congress, and in fact received the votes of but four members out of twenty-three. It seems to have suggested, in its principal features, the excellent system subsequently adopted, which, by laying off the public lands into regular squares, whose position is determined by lines of latitude, entirely removes all that uncertainty of boundary which is so fruitful of disputes and litigation.

That provision which made the divisions according to geographical, rather than mere statutory miles, was no

<sup>1</sup> IX. Journals of Congress, page 242.



doubt recommended to Mr. Jefferson, who drew the report, because it referred to a natural standard, or one-sixtieth of a degree of a great circle of the earth; but to most men, the mile in common use would be deemed preferable, and that measure was accordingly subsequently adopted.

The business of Congress was done by the committee of States in July and August; and on the first of November, Congress met, as had been agreed on, at Trenton; but it was the twenty-ninth of that month before there was a quorum of seven States. The next day they elected Richard Henry Lee, of Virginia, President.

On the eleventh of January, 1785, Congress met at New York, according to adjournment.

In March, Mr. King moved to commit the following proposition, which had been formerly rejected:

“That there shall be neither slavery nor involuntary servitude in any of the States,” as described in the resolve of the twenty-third of April, 1784, “otherwise than in punishment of crimes whereof the party shall have been personally guilty; and that this regulation shall be an article of compact, and remain a fundamental principle of the Constitutions between the thirteen original States and each of the States described in the said resolve.”<sup>1</sup>

The resolution was carried by eight votes—Virginia, the Carolinas, and one member from Georgia voting against it.

In April, Congress accepted a cession made by Massachusetts<sup>2</sup> of her claim to western lands<sup>3</sup> on that day, and executed by their Delegates, Samuel Holten and Rufus King.

The ordinance for the disposition of the lands in the

<sup>1</sup> X. Journals of Congress, page 79.

<sup>2</sup> Ibid. page 124.

<sup>3</sup> These lands lay west of Niagara River.

Western Territory was then considered, and sundry amendments were subsequently made, which gave rise to discussion during several weeks. It was finally passed on the twentieth of May, varying from the ordinance first proposed, in making the large divisions or townships six English miles square, and the subdivisions of a mile, or six hundred and forty acres; and setting aside four of three square miles in each township for the United States, and one for public schools; and prohibiting the sale of any land between the Miami and Scioto Rivers, until the lands to which the officers and soldiers, or their assignees, are entitled, are first laid off. The price of the lands was limited to one dollar per acre.

On the sixth of July, in conformity with the report of a grand committee, Congress unanimously decided that the dollar should be the money unit of the United States; that the smallest coin should be of copper, of which two hundred should pass for one dollar; and that the several pieces should increase in a decimal ratio. They thus adopted the plan which had been recommended by Mr. Jefferson the year before.

On a report of a grand committee on the subject of finance, it appeared that the money required for the current expenses of the government for the year was four hundred and sixty-eight thousand eight hundred and twenty-four dollars; that for the foreign debt, six hundred and thirty-one thousand dollars; for the interest on the loan office debts, seven hundred and forty-three thousand and fifty-four dollars; with other items, making the sum required three millions, to which each State was required to contribute according to her federal numbers.

Various expedients were suggested to postpone portions of these requisitions, and others to lessen their burden, all indicating great pecuniary pressure on the States.

The report was taken up on the eighteenth of July, and was debated, with some intermissions, until the twenty-seventh of September, when it was adopted, with amendments.

The non-attendance of members was still felt and complained of, and the Secretary was required to transmit an account of their attendance to the State Legislatures.

The committee appointed to consider what measures were expedient to meet the requisite supplies for the year, made a report on the third of February, by which it appears that somewhat more than two and a half millions of dollars were wanted for the current year; that is, four hundred and four thousand dollars for the expenses of the government, and two millions one hundred thousand dollars for interest on the public debt: and they added, that part of the money borrowed would also fall due within the year.

In their inquiry how these demands are to be met, the committee say that the United States are authorised, by their Constitution, to obtain money in three ways—first, by requisition from the States; second, by loan; and third, by emitting bills of credit—which are successively considered. Of the four requisitions, from 1781 to 1785, amounting to fifteen millions six hundred and seventy thousand nine hundred and eighty-seven dollars, less than two and a half millions had been received: secondly, that, unless we were able to pay the interest punctually, loans were impracticable, or only obtainable on ruinous terms: thirdly, that bills of credit would not serve to pay the interest of the debt; for, bearing no interest, they would put the creditor in a worse situation than before.

The public lands were indeed another resource, but



their purchase-money being payable in public securities, they would bring but a small amount of specie into the public treasury.

The committee, under these circumstances, see no means of relief from the present embarrassments, except by giving Congress power to levy duties on imports, and to provide such effectual revenue from the States as will be equal to their several quotas of a million and a half dollars annually: and as all the States, except New York and Georgia, have complied with the first part of the recommendation, that these States be earnestly urged to compliance.

In November, Mr. Hancock was elected President.

The importance of having uniform regulations of commerce had become more and more evident, and on the third of March, 1786, the committee to whom several papers relative to commerce had been referred, reported on the subject of the recommendations by Congress to the States on the thirtieth of April, 1784,<sup>1</sup> that Massachusetts, New York, New Jersey, and Virginia, have enacted laws conformably to those recommendations, but have suspended their operation until other States had acted; that Connecticut, Pennsylvania, and Maryland, have passed laws conforming to the recommendation, but have determined the time from which they are to commence; that New Hampshire has granted full powers to Congress to regulate trade for fifteen years; that Rhode Island has granted the power for twenty-five years; North Carolina has granted a power similar to that of Rhode Island, without any limitation as to time, but not to take effect till all the States have made a similar grant. They

<sup>1</sup> Vesting in Congress the power of making certain commercial regulations for fifteen years.

cannot find that Delaware, South Carolina, or Georgia, have passed any law on the subject.

It was then resolved that the recommendations of April, 1784, be again presented to the notice of the last mentioned States, and that New Hampshire, Rhode Island, and North Carolina be solicited to reconsider, and Pennsylvania, Connecticut, and Maryland, to amend their acts.

Treaties were ratified on the seventeenth of April, 1786, with the Shawanees (at the mouth of the Great Miami), and at Hopewell with the Cherokees. Also, another, at Hopewell, with the Chickasaws, and with the Choctaws.

On the seventeenth of May, a treaty with the King of Prussia was ratified, which was in conformity with the liberal principles that Congress had instructed their foreign ministers to endeavor to obtain.

After some opposition and debate, Congress declared themselves ready to accept a cession from Connecticut of her claims to Western lands, beginning at the completion of the forty-first degree of north latitude, one hundred and twenty miles west of Pennsylvania.

Mr. Hancock having resigned, from indisposition, Mr. Gorham, of Massachusetts, was elected in his place on the third of June.

The States into which Virginia had proposed, in her act of cession, to divide the north-west territory, being found not suited to the rivers and other localities of that country, Congress, on the seventh of July, 1786, recommended to that State so to alter her act of cession as that the territory should be laid off into not less than three, nor more than five States; which recommendation that State subsequently complied with.

On the ninth of August, Congress again applied to the

States of North Carolina, South Carolina, and Georgia, to make cessions of their Western territory.

From the tardiness of many of the States in complying with the recommendations of Congress on measures of finance, that body had recourse to the unusual expedient of sending committees to several of the State Legislatures. Those of Pennsylvania, Connecticut New Jersey, and North Carolina were thus attended: and the Executive of New York was earnestly recommended to convene the Legislature of that State, for the purpose of granting the impost to the United States, as had been done by the other States. New Hampshire and Maryland were also urged to a fuller compliance with the requisition of Congress. In the act passed by New York, in the May preceding, it reserved to itself the exclusive control of the revenue officers, instead of subjecting them to the authority of Congress; and it made the duties payable in the bills of credit of that State, as well as in gold and silver: and though the Governor replied that he could not constitutionally convene the Legislature, Congress renewed their request.

The cession of Connecticut was accepted on the fourteenth of September.

Rhode Island and New Jersey having passed laws for making their paper-money receivable for taxes due to the United States, instead of specie, Congress declared those laws to be inadmissible.

On the thirteenth of October, an ordinance was passed for establishing a Board to settle all accounts between the United States and the separate States; the Board to consist of three members, any two of whom to be a quorum.

On the sixteenth of October, an ordinance for the establishment of a mint was passed.

The States were required to pay in specie, five hun-



dred and thirty thousand dollars before the first of June, 1787.

It appeared, from a preamble and resolution of the twenty-third of October, that all the States, except New Hampshire and North Carolina, had conformed to the recommendations of Congress concerning the regulations of foreign commerce, so that Congress might proceed to exercise the power given immediately, if those States had concurred with the rest. They were accordingly earnestly addressed on the subject; and several others were requested to alter their acts, so that the terms of fifteen years for which the power was given should be matured from the day that Congress should begin to exercise it.

Among the subjects which had occasionally engaged the attention and occupied the time of Congress was the claim of the people between the Connecticut River and Lake Champlain to be an independent State, under the name of Vermont. The territory they occupied was partly claimed by New Hampshire, and partly by New York, both of which States were opposed to their claim of becoming an independent State; but a more particular notice of this controversy is deferred until their claim was finally admitted, in 1791.

Amidst the financial perplexities of Congress, they met with no little disappointment and difficulty in their foreign relations.

Their ministers at Paris had not succeeded in making any commercial treaty, except with a nation which had no commerce. The great Frederick had been quite willing to give this proof of liberal policy, which cost him nothing; and the other nations of Europe so little understood the real laws of trade, that they, regarding all benefits received by the American Republic in their commercial intercourse with them as injurious to themselves,

refused those offers of reciprocal privileges, which would have been beneficial to both parties.

England, which pursued the same illiberal policy, had, however, additional motives. One was, she had not forgiven the national loss and discredit sustained by the late war; another was her belief that the discriminations which she made in favor of her own ships and seamen, and her exclusion of American vessels from her colonies, could not be retaliated for want of an united and harmonious action, now that the States were not pressed by a sense of common danger.

Congress also still found a difficulty with Spain about the navigation of the Mississippi, which must, at no distant day, be a matter of vital importance to the Western settlements. The country lying both north-west and south-east of the Ohio was found to be one of the most fertile on earth, and was fast attracting population which would soon form new members of the Confederacy; and as most of the products of their agriculture would not bear the expense of transportation overland, they must find a market by the easy conveyance down the Mississippi. They were therefore desirous that they should have this navigation permanently secured to them, independent of the will of Spain, who would naturally seek to obtain some compensation for the benefit, if she granted it, and who might abuse her power on any provocation, however slight, and even from mere caprice.

There was also a difference between the United States and Spain, as to boundary. She had not relinquished her claim to a part of the territory east of the Mississippi, as comprehended in Louisiana. She also claimed a limit of West Florida much farther north than the United States admitted, or than had been recognised by the treaty with Great Britain in 1783.

The ministers whom the United States had sent to Spain having failed to settle these questions, they remained unadjusted until 1785, when Spain sent a minister to the United States (Gardoqui), with powers to settle these points, and to make a commercial treaty with those States. Mr. Jay, the Secretary of Foreign Affairs, was authorised to enter into a negotiation with him, under the direction and control of Congress.

M. de Gardoqui made some advantageous offers in the way of commercial intercourse, provided the United States would relinquish their claim to the navigation of the Mississippi. To this proposition Mr. Jay was willing to accede so far as to give up the navigation of the Mississippi for a limited term, that is, for twenty-five or thirty years, not thinking it would be of importance before the lapse of that time.

It was then proposed to repeal Mr. Jay's instructions, not to make a treaty without an explicit admission of the right to navigate the Mississippi; and all the seven States north of Delaware voted in favor of the repeal, and the five States south, with Delaware, voted against it. But as the concurrence of nine States was necessary to make a treaty, of course the vote was unavailing. But it being known (although the proceedings were in secret session) that a majority of the States were in favor of surrendering the navigation for a term of years, the fact produced much excitement among the Western settlers; and, after a time, it created among some of them disaffection to the Union.

There were also mutual complaints between the United States and Great Britain about the execution of the treaty of peace. It was urged by the former, that Great Britain still retained the military posts she had stipulated to surrender; while she justified the detention on



the ground that the States had not removed the legal impediments to the recovery of the debts due to British merchants.

With their other difficulties, the foreign commerce of the States proved a copious source of discord. Some of them not having convenient ports of their own, received most of their foreign commodities through other States, which were thus enabled, by an impost, to levy taxes on their neighbors. Philadelphia and New York thus imported for New Jersey and Connecticut. So Rhode Island imported for a part of Connecticut, Virginia imported at Norfolk for one part of North Carolina, and South Carolina through Charleston for another.

Then, in other cases, different States had rival ports on the same rivers or estuaries. Thus, both Delaware and Pennsylvania had ports on the Delaware River; Virginia and Maryland also had various rival ports on the Chesapeake. This begat competition for the foreign trade by lowering the duties, by which means the revenues they so much needed were greatly diminished in both, without either of them enlarging its commerce.

If, moreover, their trade to a foreign country was thus discouraged, and even destroyed, by the restrictions of that country, there was no power of counteracting such foreign policy, by a general regulation for all the States; and a partial retaliation by particular States would serve only to draw the trade from such States to others which had not attempted retaliation.

They thus, having neither the benefit of free trade nor of protective restrictions, saw no prospect of providing for the payment of the heavy debt contracted during the war.

A few intelligent minds saw the source of the evil, in the insufficient powers of the Confederation, and labored

incessantly to induce the States to enlarge its powers. But to this plan of reform there was strong opposition. The very struggle with Great Britain was calculated to make men extremely jealous of political power. Those who had local influence in the States were opposed to any measures by which that influence was likely to be diminished.

Among these strong inducements to an enlargement of the federal powers, the commercial difficulties of the States seem to have exerted a principal agency in bringing about that change in their civil polity. The several steps by which this great result was effected may here be noticed as a curious and interesting portion of the national annals.

Situated as Virginia and Maryland were, in having several ports adapted to foreign trade on the same great estuary, the Chesapeake Bay and its waters, the spirit of commercial rivalry was soon excited between them, when it was found that the concessions and sacrifices which one State was willing to make to increase its trade or revenue, were met by similar concessions and sacrifices on the part of the other; and thus an uncompensated loss was sustained by both. It was, moreover, a constant source of mutual irritation, jealousy, and discord. The interest of both States then strongly recommended them to agree on some uniform system of duties and other commercial regulations. Yet, obvious as were the benefits of such a system, no successful effort had been made to effect it until accident concurred with patriotic sagacity to bring it about.

For the purpose of forming a compact concerning the jurisdiction of the Rivers Potomac and Pocomoke. and a part of the Chesapeake Bay, occasionally brought into conflict between the two States, as those waters were

common to both, those States, in 1785, appointed Commissioners, who met at Alexandria in March of that year. They thence made a visit to Mount Vernon, and, while there, they agreed, on the suggestion, it is believed, of Mr. Madison, who was one of the Commissioners, and with the concurrence of General Washington, to advise their respective States to make an arrangement for supporting a naval force in the Chesapeake at their joint expense, and also to establish a tariff of duties common to both States. These propositions of the Commissioners were adopted by the Virginia Legislature. Maryland, however, qualified her assent to the propositions by a condition that they should first be made to the neighboring States of Delaware and Pennsylvania. But Mr. Madison,<sup>1</sup> who had been a member of the Legislature since he left Congress, in 1783, anticipating that Delaware and Pennsylvania might also require the concurrence of the neighboring States, and thus the proposed reform be long protracted, and perhaps defeated, was induced to propose a meeting of Commissioners from all the States. The resolution prepared by him was adopted on the twenty-first of January, 1786, according to which, Commissioners were appointed to meet those of the other States at a time and place to be agreed on, "to take into consideration the trade of the United States; to examine the relative situation and trade of those States; to consider how far a uniform system in their commercial relations may be necessary to their common interest, and their permanent harmony; and to report to the several States

<sup>1</sup> Such jealousy then existed in Virginia against the Federal government, that Mr. Madison did not venture to offer his own resolution, but prevailed upon Mr. Tyler, then Speaker of the House of Delegates, and the father of ex-President Tyler, to offer it. This fact is stated on the authority of Mr. Madison himself.



such an act relative to this great object as, when unanimously ratified by them, will enable the United States, in Congress assembled, effectually to provide for the same."

In the circular letter which conveyed these resolutions to the States, Annapolis was proposed as the place, and September the time of meeting.

Nine of the States appointed Commissioners to attend this convention, but only those of five States were represented — these were New York, New Jersey, Pennsylvania, Delaware, and Virginia; and what was remarkable, the State in which they sat had no representative.

From the small number of States represented, and the very limited powers confided to them, the convention decided to adopt no other measure than to propose to their several States a general convention of deputies appointed by the Legislatures of all the States, to meet in Philadelphia in the following May, for the purpose of a general revision of the federal system. This address was drawn by Alexander Hamilton, who there embodied the liberal views he had long entertained.

The invitation was accepted, and thus originated the government which gave stability and prosperity to our Confederated Republic.

There were other circumstances which contributed to impress upon reflecting minds the necessity of enlarging the powers of the Confederated government, and of drawing the cords of union tighter.

The people of Western Virginia and North Carolina having extended their settlements to Kentucky and Tennessee, the extraordinary fertility of those districts soon invited a strong tide of immigration; and they had already formed, like the people of Vermont, a desire of becoming independent States, and of having the exclusive manage-

ment of their own affairs. As the Mississippi furnished the only means of transportation for their bulky products, of which their teeming soil promised them a redundancy, the free navigation of the river was an object of the first importance to them, and one which they could not be induced to surrender even for a time. Their interests and wishes, then, on this point, augmented the importance of the negotiations with Spain. This negotiation was of such vital interest to those western settlers, that its possession was a matter determined on; and the only question was, whether they were to owe it to a treaty between the United States and Spain, to a conquest from the Spanish government, or as a voluntary bounty from Spain, in reward for their separation from the United States. The last would, of course, be desired by Spain, and Mr. Gardoqui was not without hopes, at one time, that by his intrigues it might be effected.

New England, too, presented difficulties of its own. The people of the province of Maine, separated as they were from Massachusetts by the intervening State of New Hampshire, already showed themselves desirous of separating from Massachusetts, and of becoming an independent State.

To meet the requisitions of Congress, as well as to provide for their own creditors, the Legislature of Massachusetts had laid taxes which were expected to produce near a million of dollars — a very large amount in proportion to the population the State then had, and in the exhausted condition in which it had been left by the war. There was superadded a general state of private indebtedness, which filled the courts with law-suits. Galled by the united pressure of these taxes and debts, the people loudly complained; and from complaints they proceeded, according to their wont, to call meetings to consult on

modes of remedy or alleviation, and no efficient means presenting themselves, they, under the guidance of a few desperate men, had recourse to arms. They insisted on closing the courts; they clamored against the lawyers and the laws themselves; the salaries of public officers; and loudly demanded the issue of paper-money, by which, from its greater abundance, every one hoped to find it easier to pay his debts.

The like evils being felt in the adjoining States, their citizens naturally sympathized with the malcontents of Massachusetts, and the more reckless of them inclined to the same violent remedies. The people of New Hampshire were urgent for a suspension of taxes, and for the issue of paper-money. The Governor of Massachusetts, James Bowdoin, having promptly convened the Legislature, on the breaking out of these disturbances, they endeavored to allay the discontents by reducing the legal costs of suit, and by allowing certain taxes to be paid in agricultural products, at fixed prices; but the popular commotion still continuing, the militia was ordered out by the Governor. Congress, at the same time, voted thirteen thousand men to aid the government of the State.

The leader of the insurgents was Daniel Shays, a captain in the late army of the United States. At the head of one thousand men, he prevented the session of the Supreme Court at Worcester. The Governor called out four thousand men to serve for thirty days under General Lincoln, the expense of which force was defrayed by funds advanced by Boston merchants.<sup>1</sup>

The malcontents, now increased to about two thousand men, marched to Springfield, where was a national arsenal. On their demand of possession, and actually advancing

<sup>1</sup> III. Hildreth, page 474.



on it, General Shepherd, who there commanded, having discharged some of the field-pieces, the insurgents fled in disorder, leaving three men killed and one wounded. They still retreated on Lincoln's approach, and they offered to disperse on the promise of a general pardon. He having no authority to grant it, they retreated to Petersham; but by a rapid march, were overtaken next morning by Lincoln, who made one hundred and fifty prisoners. The rest dispersed. Most of the leaders took refuge in New Hampshire. Lincoln then proceeded to Berkshire County, where the insurgents were most numerous.

The neighboring States were called upon to assist in arresting the insurgents. New Hampshire, Connecticut, and New York readily complied. Rhode Island and Vermont hesitated.

This insurrection, as ill sustained as it was ill conceived, was soon quelled. Of the prisoners, fourteen were found guilty of treason, and many were convicted of inferior offences. None, however, were executed; and the conditions of pardon were so light, that about eight hundred took the benefit of them. It was found necessary, or at least deemed prudent, thus to temporize, as it was supposed that the insurgents had the sympathy and favor of full one-third of the people. A consequence of this state of the popular sentiment was, that at the ensuing election of Governor, Bowdoin, whose promptness and decision in putting down this discreditable rising had done so much to redeem the character of Massachusetts, was not re-elected.

Independent of the instructive lessons taught by these events, a revision of the federal constitution, and an enlargement of its powers had been recommended not only by the most distinguished statesmen, but also by some

of the State Legislatures. New York had, as early as 1782, advised a convention for that purpose; but it had led to no result. Massachusetts had passed resolutions of a like character, but had afterwards repealed them. But Mr. Madison's efforts, which had been unremitted, were, as we have seen, finally crowned with success. The recommendation of the convention of Annapolis received the sanction of Congress; and all the States, except New Hampshire and Rhode Island, appointed Delegates to meet in convention at Philadelphia, in May, 1787

The object of the convention to be assembled was as weighty and important as ever devolved on a deliberative body; for upon their wisdom depended the destiny of the tens, nay, hundreds of millions of human beings for whom they were then legislating. It was to adjust the powers of sovereignty between the State governments on one side, and the federal government on the other; so that each might have the power requisite to fulfil its appropriate functions, but not enough to disturb the equipoise between them.

To frame a government so that it will continue to act efficiently against the various and often conflicting influences of human passions and interests, as also against the slow, unseen changes of time, must always demand the best efforts of human wisdom; but the difficulty was the greater, on the present occasion, from the complex character of the government about to be formed for the United States.

Here, where all subjects of municipal law which directly concern the property, the person, and the private relations of the citizen, such as matters of religion, morals, education, or contract, as are within the scope of the legislator, are left to the State governments; those objects for which they are less competent, as providing

the means of national defence, of intercourse with other nations, and the regulation of foreign commerce, are assigned to the general government. By this division of sovereign authority, it was intended to preserve and protect local usages, feelings, and habits; and, by means of the power and resources of the whole, to produce national results to which the means and capacities of single States were unequal.

To perfect this admirable system, it was equally important to guard against giving too much or too little power to the new government, as either would be destructive of its intended benefits, and of its own permanence. If it had so much power as to control the legitimate authority of the States, it would lose its federative character, and, becoming one great consolidated government, it would no longer be republican, no longer have that ready and delicate sympathy between the ruling and the governed parties which ought to exist, or that intimate knowledge of the wants and feelings of the citizen which belong to the legislators of his choice.

If, on the other hand, the power of the general government was too restricted, and that of the individual States made supreme, then all the mischiefs which the present convention meant to remedy would return, greatly aggravated by the party conflicts which had preceded. It requires little reflection to satisfy us that, in this condition of distinct and independent sovereignties, jealousies and enmities must soon arise, as they ever have arisen among neighboring communities; that standing armies, for conquest or defence; expensive fortifications; strong executive powers, requiring onerous taxes, and a liberal surrender of personal liberty, would be the consequences. America would thus become the theatre of the same course of war, misery, and poverty which had afflicted



Europe for the last ten centuries, and from which it had been the pride and boast of this country to be free.

But besides the inherent difficulty of making this adjustment of political forces in which human foresight comparatively does so little, and experience so much, there were other obstacles to success which grew out of peculiar and incidental circumstances.

In the temporary government by which they had resisted Great Britain, and the great defects of which had been supplied by a sense of common danger, every State had an equal vote, while some States had eight or ten times the numbers of others; so that a small minority of the people might prevail against a large majority. This was so unreasonable and so inconsistent with the first principles of a republican government, that it would not be submitted to by the strongest, who would be the injured party. On the other hand, the small States would be unwilling to surrender their equal share of power; and unless they did, there would probably be no confederate government.

The feelings of individuals were also enlisted against a form of government which would lessen the political weight and importance of those whose influence was merely local.

There was a further difference among the States on the interesting subject of their foreign commerce. Some States had excellent harbors, and imported foreign merchandize for their neighborhood as well as themselves; and if an impost was laid, as was usual, they would thus raise a revenue from their neighbors. While this consideration induced some States to wish for a government which would defend them from such injustice, those who profited by it were reluctant to surrender the advan-

tages they possessed — at least without a compensating benefit.

There was, moreover, likely to be the wonted diversity of individual opinion on the theoretical principles of government; and on the distribution of its powers among the three great departments of the Legislature, Executive, and Judiciary.

And lastly, should these several obstacles be overcome, and a constitution be agreed on, there was a chance that it might not meet with the sanction of the States, when submitted to the consideration of new deliberative bodies.

But, on the other hand, there were many circumstances to encourage their efforts to frame an efficient general government. The defects of the present Confederation had now become obvious to all. The country owed a heavy debt of money, as well as of gratitude, to its defenders; and it neither had revenue, nor the power to provide it. The requisitions on the States availed as little as Owen Glendower's calls of spirits. Their commerce, too, was monopolized by Great Britain through her restrictive regulations, which so many distinct Legislatures could not combine to retaliate. They were held in little respect abroad; and if they had, nominally, obtained a place among sovereign nations, it was but to subject them to open slights and repulses. The only commercial treaties they had succeeded in making, were with nations which had no commerce, Prussia and Morocco. Insurrection had already been experienced in one State, and had seemed but too probable in another. The local disputes between some of the States had more than once threatened a resort to arms.

It afforded no small encouragement to the conservative party, that the body of men selected by the States to

devise a plan of government suitable to the emergency, were the ablest and wisest the country afforded. Whatever they should decide on would, therefore, be most strongly recommended to the American people.

Though the fourteenth of May was the day appointed for the meeting of the Convention, on that day seven States were unrepresented; but on the twenty-fifth of May, twenty-nine members, from nine States, had assembled, when they proceeded to business. Their first act was to choose a presiding officer. On the nomination of Robert Morris, of Pennsylvania, George Washington was unanimously chosen by ballot. This nomination was to have been made by Dr. Franklin, but indisposition prevented his attendance.<sup>1</sup> Major Jackson was appointed Secretary. A committee was appointed to prepare rules, which, on the report of the committee the next day, were adopted; the most important of which were, that seven members constituted a quorum, and that nothing spoken in the convention was to be published or communicated without leave.

The next day every State, except New Hampshire and Rhode Island, was present; and as Virginia had been most instrumental in bringing about the meeting of the convention, it was deemed proper that she should take the initiative in proposing a plan of government; and, accordingly, Mr. Edmund Randolph, from that State, brought forward a series of resolutions which had been prepared on consultation with his colleagues. These resolutions contained the alterations of the present Confederation deemed most material; and they were referred to the Committee of the Whole for discussion. He was immediately followed by Charles Pinckney, of South Carolina,

<sup>1</sup> II. Madison Papers, page 722.



who also submitted the outline of his plan of a federal government, which was, in like manner, referred to the Committee of the Whole.

In those cases in which a division was made, if the provision was deemed of vital importance by the minority, it was again freely discussed, so as, by argument or concession on one side, or by both sides, to attain a more harmonious result, since the new Constitution could be binding on no State that should reject it. Several of its most important provisions were thus the natural result of compromise.

One of the first questions to be settled was the weight which the different States were to have in the convention; and though the members from some of the large States were disposed to insist on a proportional vote in the convention, it was, on a private consultation, deemed prudent to decline this in the first instance, and to leave the small States the merit of voluntarily conceding what the larger States would insist on in the new Constitution, and what the former could not decently refuse. Each State, therefore, had an equal vote in the convention, as it previously had in Congress.

The first principle in the new Constitution determined by the convention was, the new government was not to be purely federal, but to be also national, or, in other words, that its laws were to act on the people individually, rather than on the States as heretofore; when it was urged by some of the members that this exceeded the legitimate powers of the convention, and had not been contemplated by their constituents. The question was taken, when there were six ayes to one no — Connecticut in the negative, and New York divided.

On the proposition that the Legislature should consist of two branches, the vote was unanimous, except that of

Pennsylvania, which, conforming to the opinion of Franklin, was in favor of a single branch.

A part of the convention thought the members of the first branch ought to be elected by the State Legislatures, as the members of Congress had been under the articles of Confederation; partly because it was assumed that the people were less competent to make a fit choice, and partly from a fear of infusing into the government too much of that wild spirit of democracy which had exhibited itself in the recent insurrection in Massachusetts, in favoring in many States the introduction of paper-money, and in disregarding the rights of creditors. But Mr. Randolph's proposition of an election by the people was agreed to by five States against two, New Jersey and South Carolina; Connecticut and Delaware were divided.

Of all the parts of the new plan of government, there was no one which was found so difficult of adjustment as the comparative votes of the different States in the National Legislature.

The conflicting views of the members on this subject being apparent on one of Mr. Randolph's propositions, "that the right of suffrage in the National Legislature ought to be proportioned either to the quotas of contribution, or to the number of free inhabitants," the further discussion of the subject was, by the consent of both parties, postponed for the time, until the functions of the two Houses, their mode of election, and qualifications, were considered. But on the ninth of June the subject was resumed, and discussed with much warmth, when, on the motion that the right of suffrage in the first branch of the National Legislature ought not to be according to the rule established in the articles of Confederation, but according to some equitable mode of representation, seven States voted in the affirmative,

but New York, New Jersey, and Delaware in the negative, and Maryland was divided.

At the same time, on the question for allowing each State one vote in the second branch, or Senate, there were but the five States of Connecticut, New York, New Jersey, Delaware, and Maryland, in favor of it; the other six States voted in the negative; and on the question of the ratio in the Senate, it was decided by six States—Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia—to five, that the ratio of representation should be the same in the second as in the first branch of the Legislature.<sup>1</sup>

It deserves to be remarked, that South Carolina and Georgia, though then among the less populous States, yet, regarding the future numbers which their territory was likely to give them, voted with the larger States; while New York, already somewhat exceeding the average in population, and destined, in less than thirty years, to be the most populous State in the Union, voted with the smaller States.

This equitable ratio was then decided to be according to the number of free citizens and three-fifths of the slaves—nine of the States being in favor of it, with only New Jersey and Delaware in the negative.

Such had been the decision in the Committee of the Whole; but the subject was resumed in the House on the twenty-seventh of June, when Mr. Luther Martin, of Maryland, in an elaborate speech, insisted on the necessity of an equality of votes, which he maintained the States could not give up without giving up their liberty: that, if too little power was given to the new government, it might be added to, but if too much, it could never be resumed: that the failure of the States to comply with

<sup>1</sup> Madison's Debates, page 643.



the requisitions of Congress had proceeded from inability, caused by the indebtedness of the people, and the waste of property during the war, which were but temporary evils: that the remedy for the inequality of the States might be found in a division of the largest: that, in the event of a dissolution of the Union, the smaller States could protect themselves: and that he had rather see partial confederacies resorted to than the plan on the table adopted.

The fallacy of the reasoning by the friends of an equality of votes was ably pointed out by Mr. Madison. He showed that while the power they claimed was most unreasonable and unjust, their fears of injustice from the larger States were visionary, since, being as diverse in interests and pursuits as in situation, they could have no motive to combine. He was supported by Wilson, of Pennsylvania, Dr. Franklin, and Hamilton, who pointed out the dangerous consequences of a dissolution of the Union, and among others, alliances between the individual States and the rival and hostile nations of Europe, who would make us parties in their quarrels.

On taking the question, that the suffrage should not be the same in the first branch of the Legislature as that established by the articles of Confederation, six States voted aye — Connecticut, New York, New Jersey, and Delaware, no—and Maryland divided; when the subject was postponed.

It was then proposed by Mr. Ellsworth, of Connecticut, that each State should have an equal vote in the Senate. He trusted that this middle ground would be adopted by way of compromise, and that Massachusetts was the only New England State which would consent to an exclusion of the States from an equal vote in both branches. He said that the large States, notwithstanding the equality

of suffrage, have an influence which would maintain their superiority; and that this qualified equality was essential to the self-defence of the small States, who could, with more difficulty, combine, from their greater number.

Mr. Gorham endeavored to show that the fears of the small States were unfounded, as had been proved by the union of the three districts into which Massachusetts had been divided; by the case of Connecticut and New Haven; and by that of East and West Jersey: that the weak States more needed the protection of law and government than the strong States.

Mr. Madison entreated the members from the small States to renounce a principle confessedly unjust, which could never be admitted, and which, if admitted, must infuse mortality into a constitution intended to be permanent. His fear was, in case of a separation, that the large States, now supposed to be wanting in energy, would have too much of it; so as not only to be formidable to the small States, but to the liberty of all. Military force would soon be introduced by State jealousy, and the example would be followed, till the practice became universal. What had been first intended merely as the means of national defence, had always proved the instruments of tyranny.

Mr. Hamilton maintained that the present contest was not one of liberty — it was one of power. There was no ground of combination among the largest States. Their interests were distinguished into those of carrying and non-carrying States, and this divides the largest States.

Mr. Wilson, of Pennsylvania, said the votes against a just representation were as twenty-two to ninety of the American people; and the question presented was, whether less than one-fourth should withdraw from the Union, or more than three-fourths renounce their inherent, indis-

putable right in favor of an artificial political system. And he asked, for whom they were forming a government; was it for *men*, or the imaginary beings called *States*? Unless the rule of suffrage was the same in both branches of the Legislature, the government would be neither solid nor lasting. He showed that the apprehended danger of monarchy and aristocracy were illusory, since they gave power to the few over the many, while the large States wished to give it to a majority: that there were two species of bad government — those which had too much power, and those which had too little; and that it was the latter defect of weakness under which the people of the United States were then suffering. If equality in the Senate was permitted, we should still be fettered, as heretofore, and twenty-four votes would control sixty-six.

Mr. Ellsworth maintained that the power proposed to be given to the small States, in only one branch, was merely conservative of those States, and could not oppress the larger. He insisted that no salutary measure had ever been defeated for want of a majority of the States to favor it. The proportional vote in the first branch affords security to the large States. An equality of votes in the second branch can alone afford security to the small States. He urged that in all confederacies the votes of the members were equal.

Mr. Madison denied that this equality was universal; and he instanced the German system, and the Lycian Confederacy. He showed how, with the power claimed by the small States, they might injure the majority, by obstructing their wishes, and forcing on them measures repugnant to their interests. He urged that the division of interests did not lie between the large and the small States, but between the Northern and Southern.



Mr. Davis, of North Carolina, regarded a proportional representation as increasing the numbers in the Senate too much ; and to make the States equal, would be bringing us back to the Congress as now constituted. He could vote for no plan yet proposed.

Mr. Wilson proposed, by way of obviating the objection of making the Senate too numerous, to give each State a member for every one hundred thousand of its population, but allowing the States not having that number one member.

Dr. Franklin suggested that, in all cases which affected the sovereignty of the States, their votes should be equal ; as also in the appointment of civil officers of the general government ; but that, in fixing the salaries of such officers ; in all appropriations and dispositions of money ; and in laws for supplying the revenue, the States should have votes in proportion to their contributions.

Mr. King, of Massachusetts, was in favor of proportional suffrage in the Senate. He saw, with astonishment, that, when all were convinced that every *man* was secured in his rights, we should be ready to sacrifice this substantial good to the phantom of State sovereignty. He would support such an expedient as Mr. Wilson had suggested, but would never consent to an equality of votes.

Mr. Drayton, from New Jersey, and Mr. Martin, said there could be no Confederacy which did not secure to the small States equality in the Senate.

Mr. Bedford, of Delaware, maintained that there was no middle course between a perfect consolidation of the States and a mere Confederacy. He said that all the States which were now large, or expected to be so, were seeking to aggrandize themselves at the expense of the small States ; and whether a combination, or, as some supposed,

a competition among these States took place, the small States must be ruined. He averred that the small States would never submit to the degradation; and in case of a dissolution of the Union, they would find some foreign ally that would do them justice.

Mr. King urged that expedients could be devised to give the small States ample security for their rights by constitutional provisions. He referred to the mingled union between England and Scotland. He, with delicacy, but severity, rebuked Mr. Bedford for being ready to court foreign assistance.

On the second of July the question was undecided, there being five ayes, five noes, and Georgia was divided.

General Pinckney proposed that a committee, consisting of a member from each State, should be appointed to devise some compromise of the question.

Mr. Gouverneur Morris, in supporting the motion, descanted on the importance of checking the excess of the democratic spirit which he said had, in the State Legislatures, produced precipitation—in Congress, changeableness; in every department, excesses against personal liberty, property, and safety. The checking branch must have a personal interest in restraining the other branch. If the second branch is to be dependent, we are better without it. To make it independent, its members should be elected for life. He thought the aristocratic interest and the popular interest would check each other. He dilated upon the advantages of this plan by giving stability to the government, respectability abroad, and by offering rewards to ambition. The question of the commitment received the votes of all the States, except New Jersey and Delaware.

On the fifth of July, the committee, in their report, proposed that, in the first branch of the Legislature, each

State should have a member for every forty thousand inhabitants; that money-bills should originate in this branch; and that, in the second branch, the States should have equal votes; but that neither of the propositions was to be adopted singly.

This compromise had been suggested in the committee by Dr. Franklin; and it received the bare acquiescence of the members from the larger States.

The whole subject was again fully discussed in the convention by Mr. Madison, Mr. Butler, and Mr. G. Morris, in opposition to the report; and by Mr. Bedford, in defence of the small States. He took occasion to say that he had been misapprehended in what he had said regarding foreign nations; and he excused himself for the introduction of the topic by the warmth of his feelings.

After much discussion on the various parts of the report, as to the number of representatives, the principle that population, instead of contribution, should determine the number of delegates from each State, and the effect of the provisions regarding money-bills as a concession to the large States—on the question concerning money-bills there were five ayes in favor of the report, three noes, and four States divided. The question was considered as carried.

On the question of allowing an equality of votes in the second branch, there were six ayes—Pennsylvania, Virginia, and South Carolina, no—and Georgia divided.

It was then settled, after the appointment of two committees, and much discussion, that the first branch, or House of Representatives, should at first consist of sixty-five members, which were distributed among the States according to their supposed numbers, counting five slaves as equivalent to three free persons; and this



apportionment received the support of nine States; South Carolina and Georgia voted in the negative; and New Hampshire was unrepresented.

On the question of agreeing to the whole report, as amended, there were five ayes, Connecticut, New Jersey, Delaware, Maryland, and North Carolina; Pennsylvania, Virginia, South Carolina, and Georgia, no; Massachusetts divided; New Hampshire and New York not voting: and thus this delicate and irritating question was put to rest, though by a majority of votes representing a minority of the people.

In counting three-fifths of the slaves to determine the number of delegates to which each State was entitled, there was a discrepancy of interests among States altogether different from that which had divided them on the question of the votes of the States in the Senate.

Mr. Patterson, of New Jersey, was against allowing any representation to a State for its slaves. He could regard them only as property. As they are not represented in the State government, neither ought they in the General government. He was also opposed to such an indirect encouragement of the slave trade.

Mr. King urged that the four Eastern States, having eight hundred thousand inhabitants, have one-third fewer members than the four Southern States, with only seven hundred thousand, rating the blacks as five to three.<sup>1</sup>

<sup>1</sup> In the facts here assumed by Mr. King, he was egregiously mistaken. Under the first distribution of representatives in Congress, the New England States were entitled to seventeen members; and the four Southern States, including Kentucky and Tennessee, to twenty-seven members. But according to the census of 1790, the population of the New England States was..... 726,275

And that of the Southern States, including Kentucky

and Tennessee, as before, was..... 1,473,680

By the apportionment then made, the last-mentioned States were enti-

The members from South Carolina thought that all the slaves should be counted; which was opposed by the members from Massachusetts.

Mr. Mason was opposed to it, though advantageous to Virginia, because he did not consider it just.

Each party taxed the other with inconsistency, when the subject of taxation was under consideration—the Eastern States then regarding the labor of blacks as equal to that of whites, and the Southern States maintaining that it was greatly inferior.

On the question of rating their numbers fully, there were seven noes; Delaware, South Carolina, and Georgia, in the affirmative; New York was not represented.

Mr. King was against reckoning the slaves. It would excite great discontent among the States having no slaves.

Mr. Wilson was disposed to admit a portion of the blacks in the enumeration, by way of compromise; but apprehended that their admission would give disgust to the people of Pennsylvania.

Gouverneur Morris said he was reduced to the dilemma of doing injustice either to the Southern States, or to human nature; and he must therefore do it to the former. He could not consent to encourage the slave-trade, by allowing those States a representation for their slaves.

On the question of including three-fifths of the slaves, Connecticut, Virginia, North Carolina, and Georgia, voted ay; the other States no; New Hampshire and New York were unrepresented.

Mr. Davis, on a subsequent day, remarked that it was obviously meant by some to deprive the Southern States

ted to thirty-seven members, and the New England States to twenty-seven; thus indicating that, in the distribution of members to the first Congress, they received a somewhat larger proportion than they were entitled to.

of any share of representation for their blacks. He was sure that North Carolina would never confederate on any terms that did not rate them at least at three-fifths.

Gouverneur Morris said he came there to form a compact with all the States. If all would not, he was ready to join those that would. But it was vain for the Eastern States to insist on what the Southern States would never agree to; and he verily believed the people of Pennsylvania would never agree to a representation of negroes.

It was moved by Mr. Ellsworth, that the rule of contribution by *direct taxation* should be the number of white inhabitants, and three-fifths of every other description, in the several States, according to a census to be taken periodically—six ayes; New Jersey and Delaware, no; Massachusetts and South Carolina divided.

It appeared that there was not only a jealousy felt by the small States against the large, and by the slaveholding States against the States without slaves, but by the Atlantic States against the new States which would hereafter be formed in the West.

This was first noticed in the convention by Gouverneur Morris, who thought the rule of representation ought to be so fixed as to secure to the Atlantic States a predominance in the National Council.

A part of the Massachusetts delegation, and of that from South Carolina expressed the same sentiments.

They were, however, opposed by Mr. Mason and Mr. Madison; and, on the motion of Mr. Gerry, that the representatives of the States hereafter admitted into the Confederacy should never exceed in number the representatives from such of the States as should then accede to this Constitution, Massachusetts, Connecticut, Delaware, and Maryland, voted ay; New Jersey, Virginia,



North Carolina, South Carolina, and Georgia, no; Pennsylvania was divided.

The subject of the Executive power was one which gave rise to much discussion, from the great diversity of views entertained by the members, as well as from the importance and inherent difficulty of the subject.

There was at first a preference, by a few of the members, for a plural Executive; but when the proposition contained in the resolutions brought forward by Mr. Patterson, that the national Executive should consist of a single person, was proposed, it was agreed to without opposition or debate.

The important points to be settled were, the mode of appointing the Executive, the extent of his powers, and the tenure of his office.

Mr. Patterson's resolution proposed that the Executive should be chosen by the National Legislature.

This was opposed by Gouverneur Morris. He preferred an election by the people, who, he said, would not fail to elect some man of continental reputation; whereas, an election by the Legislature would be the work of intrigue and faction.

Mr. Sherman preferred an election by the Legislature, because the people would not have the requisite information, and would never concur in a majority. They would generally vote for a citizen of their own State.

Mr. Wilson was in favor of an election by the people. In answer to the objection drawn from the example of Poland, he showed the difference between an election in this country and that. There the election is made by nobles, who are backed by dependants. This leads to civil commotion; and the election is, moreover, at a single place — neither of which sources of danger would exist here. It might be provided that a majority of voices

should decide the election, though it was not a majority of the people. To give the election to the Legislature would make the Executive dependent on that body.

Mr. Pinckney was much opposed to an election by the people. They would be led by a few artful men; and the most populous States would, by combining in favor of the same individual, carry the election.

Gouverneur Morris answered the objections, and said an election by the Legislature would be really like an election in Poland. "Appointments made by numerous bodies are always worse than those made by single responsible individuals, or by the people at large."

Mr. Mason was decidedly opposed to a popular election, which he likened to referring a trial of colors to a blind man.

Mr. Williamson took the same ground, and said the difference between the two modes was the difference between an appointment by lot and by choice. The people will always vote for some man in their own State.

On the question of an election by the people, there was but a single affirmative vote, Pennsylvania; and nine noes; New York still absent.

On the question of a choice by electors appointed by the State Legislatures, Delaware and Maryland voted in the affirmative; eight in the negative.

On the question of a choice by electors chosen by the the National Legislature, such choice was voted unanimously.<sup>1</sup>

But on further consideration, this mode of appointment seemed repugnant to that independence of the Legisla-

<sup>1</sup> It was not then foreseen that this mode of choice would not essentially differ from that which had been rejected by every vote but one. No one would have been appointed as an elector, who was not previously known to support the wishes of the Legislature.

ture which they all wished to confer on the Executive; and two days subsequently, on the motion of Mr. Martin, to reverse a previous vote, and to make the Executive ineligible a second time, the mode of appointment was reconsidered.

Gouverneur Morris dwelt on the importance of making the Executive Magistrate independent of the Legislature; and he saw no way of effecting this, but either to give him his office for life, or to make him eligible by the people.

Mr. Randolph preferred an election of the Chief Magistrate by the Legislature, and making him not re-eligible.

Messrs. King, Patterson, Wilson, and Madison, all pressed an election by the people, or by electors; and it seemed to be agreed by all, that if he were elected by the Legislative branch, he should not again be eligible.

Mr. Ellsworth proposed that he be elected by electors appointed by the State Legislatures, in a ratio varying from one elector to three in a State.

For the appointment by electors there were six ayes, and three noes; North Carolina, South Carolina, Georgia; — Massachusetts, divided.

On their appointment by the State Legislatures, there were eight ayes; Virginia and South Carolina, no.

The part relative to the proportional votes of the States in the choice was postponed.

The next day — the twentieth of July, Mr. Gerry proposed that there should be twenty-five electors, who should be distributed among the States, in the first instance, in the proportions designated. Six States voted in favor of it; New Jersey, Delaware, Maryland, and Georgia, no.

On the twenty-fourth of July, the mode of appointing



the Executive was again reconsidered, on the ground of drawing together men from all the States, for the single purpose of electing the Chief Magistrate. He proposed that the National Legislature should appoint the Executive.

Mr. Gerry was opposed to that mode; if it prevailed, the Executive must be made ineligible a second time, to which he objected.

Mr. Strong thought there was no necessity of making the Executive not re-eligible, as he would not depend on the same set of men who gave him the first appointment.

Mr. Williamson was for making the Executive not re-eligible. He declared a preference for a plural Executive. A single Magistrate will be an elective king, and will feel the spirit of one. He will spare no pains to keep himself in for life, and will then lay a train for the succession of his children. It was pretty certain, he thought, that we should, at some time or other, have a king; but he was for taking every precaution to postpone it.<sup>1</sup>

For the appointment by the National Legislature, seven ayes; Connecticut, Pennsylvania, Maryland, and Virginia, no.

The consideration of the re-eligibility of the Executive, and the term of his office, was then postponed.

This vacillation of the convention, as well as the tenor of the debates themselves, showed how perplexing a subject they found the Executive branch of the government.

Mr. Wilson had such objections to an election by the Legislature, that he would prolong the term of service to almost any length, to get rid of the dependence which

<sup>1</sup> If, as Burke says, the people of this country snuff the approach of tyranny in every tainted gale, they sometimes allow their imaginations to perceive it in breezes that are perfectly innoxious.

must result from that mode of election. He suggested a choice by a small number of the Legislature, say fifteen, to be drawn by lot.

Gouverneur Morris vehemently objected to an election by the Legislature. Some leader of a party will always covet his seat; will perplex his administration; will cabal with the Legislature, till he succeeds in supplanting him. He referred to the party intrigues in England to get rid of a minister. He considered that making that officer ineligible a doubtful and unsafe remedy. He will wish to continue in office, and if you close the road to his object, he will open it with the sword of which you put him in possession. He regarded this as the most difficult part of the Constitution. Make him too weak, and the Legislature will usurp his power; make him too strong, and he will usurp on the Legislature.

Mr. Ellsworth again proposed an election by the National Legislature, except when it was proposed to re-elect the former Executive, in which case there should be electors appointed by the State Legislatures.

In the course of the discussion, Mr. Madison remarked that there were objections against every mode that had been, or perhaps can be proposed. He reviewed the different modes, and stated the objections to each. He preferred an appointment by electors, as least exposed to cabal or corruption.

For Mr. Ellsworth's motion, New Hampshire, Connecticut, Pennsylvania, and Maryland; the other States, no; New York, absent.

Mr. Butler was against a re-eligibility, and an election by the Legislature, and a ratio of votes in the States. In this case they should have equal votes.

Gouverneur Morris was against a rotation. It always produces instability of councils; it will not prevent in-

trigues. He thought an election by the Legislature the worst of all modes.

Mr. Williamson was also opposed to it. He suggested that every man should vote for three candidates; one of them would probably be of his own State; the other two from other States.

Gouverneur Morris approved of this expedient, and proposed that each man should vote for two persons, one of whom, at least, should not be of his State.

Mr. Madison approved of the suggestion.

Mr. Gerry still dwelt on the ignorance of the people as disqualifying them from making the election. They would be under the influence of men acting in concert, such as the Society of the Cincinnati, who, he thought, would thus always elect the Chief Magistrate.

Mr. Dickinson was decidedly in favor of an election by the people. He said that the people of each State would choose its best man, and the people of all the States would choose one of the thirteen thus selected.

Mr. Mason noticed the several modes of election that had been proposed, with the objections to them. Adverting to Mr. Williamson's, of each man voting for several candidates, he admitted it was plausible, but liable to the insuperable objection of throwing the appointment into the hands of the Cincinnati. He concluded with moving that the Executive be chosen by the Legislature for seven years, and be then ineligible.

For this there were seven ayes; Connecticut, Pennsylvania, and Delaware, no; Massachusetts not voting.

The provisions of the new Constitution which had been agreed to by the convention were referred, on the twenty-third of July, to a committee of detail, on whose report the whole was subjected to reconsideration; and on the twenty-fourth of August, on resuming the



subject of the Executive, it was again moved to give the election to the people : but the motion received the votes of only Pennsylvania and Delaware ; nine States voting in the negative.

There was a difference of opinion as to whether the votes of the two branches of the Legislature should be joint or separate, and as to the relative votes of the States.

The election by electors to be chosen by the people was also negatived by six votes to five.

The subject was resumed on the fourth of September, and the mode of election subsequently adopted was proposed by a committee of eleven. The subject, after some discussion, was again postponed. Two days subsequently different propositions were made, in case of the failure of the electors to elect, all of which were disagreed to.

On the sixth, the plan of choosing by electors was carried by nine States to two — North and South Carolina ; and, in case they did not elect, referring the election to the Senate from the five highest on the list of candidates.

Mr. Williamson proposed that, in such cases, the election should be by the House of Representatives, each State having one vote ; to which all the States assented, except Delaware.

It was further provided that a quorum for such election should consist of a member or members from two-thirds of the States : and thus this perplexing subject was brought to a close, in the form it was finally made to assume : but this part of the Constitution, it deserves to be remarked, is the subject of one of the only two amendments which have been made to that instrument ; and the particular provision of voting for two persons, one of whom was not to be of the same State as the voter — which was received with peculiar favor, as effectually

counteracting local predilections — was the part which was found dangerous in practice, and most loudly demanded the amendment; so short-sighted are the wisest in their speculations concerning government.

About the powers of the Chief Magistrate there was less disagreement. Some were disposed to give to the Senate the exclusive power of appointment; but it was decided to give it to the Executive, requiring, however, the concurrence of the Senate. All treaties were to be made by the Executive, but to require the concurrence of two-thirds of the Senate.

A qualified negative on all legislative acts was given to the President, so as to make two-thirds of each branch of the Legislature necessary to pass any law to which he had refused to give his sanction. Some few would have given him an absolute negative; and some would have required three-fourths of the Legislature instead of two-thirds. The President alone might fill all vacancies that happened during the recess of the Senate; and the persons thus appointed remain in office till the end of the next session of the Senate. He has the power of pardon, except in cases of impeachment; is Commander-in-chief of the army and navy, and of the militia when called into service; and on him devolves the general execution of the laws. He may convene the Legislature, and, in case of disagreement of the two Houses, may adjourn them.

When powers so large were conferred on the Chief Magistrate, the tenure of his office, and the term for which he held it, excited as much interest as the mode of his appointment; and in the minds of most of the members, the decision of these last questions influenced their opinions and votes on the mode of appointment.

By the resolutions submitted by Mr. Randolph, the Executive was to continue in office seven years.

Mr. M'Lurg, of Virginia, moved to substitute good behaviour for seven years.

His motion was supported by Gouverneur Morris and Mr. Madison.

This proposal received the support of New Jersey, Pennsylvania, Delaware, and Virginia; the other six States present voted no.

The motion to strike out the clause making the President ineligible for a second term had been previously agreed to.

The term reduced to six years—nine States ay, Delaware no.

Mr. Pinckney proposed that the Executive should serve not more than six years out of twelve—five ayes, six noes.

On the fourth of September, his term was reduced to four years.

In forming this Constitution, the convention found incalculable advantages from the light which the actual experience of the Confederation had afforded, especially in the distribution of the powers between the General government and the separate States.

About the powers conferred on the General government, there was not a great contrariety of views. All concurred that the entire regulation of commerce should be given to the Federal government, with the power to declare war, to raise armies and navies, and to levy taxes on the citizens of the several States; to establish a post-office; to coin money, and to regulate its value; and to pass naturalization laws. The points on which there was a difference of opinion were, comparatively, of minor importance.



It was proposed to prevent Congress from enacting a navigation law without a majority of two-thirds, or three-fourths; but it was rejected: and the power of creating corporations, as well as that of taxing exports, both of which some had wished, were expressly prohibited.

The peculiar interests of the slave-holding States were regarded in an express provision that fugitive slaves should be delivered up on the claim of the master; and from a regard to the earnest wishes of South Carolina and Georgia, Congress engaged not to prohibit the importation of slaves before 1808, and not to lay any tax on such importation exceeding ten dollars for each person.

Such acts of the States as were inconsistent with the powers granted to the Federal government were expressly prohibited, as laying duties on imports or exports, or tonnage duties; keeping troops, or ships-of-war, in peace; engaging in war, unless invaded; or making any treaty; issuing bills of credit; coining money; making any thing but gold and silver coin a legal tender; passing any bill of attainder, or *ex post facto* law, or any law impairing the obligation of contracts. In their jealousy of privileged classes, both governments were expressly forbidden to grant any order of nobility — an interdict which seems, at the present day, as complete an act of supererogation as it would have been to forbid the introduction of the Mahomedan religion.

But on the distinctions of rank, and the subject of government, men's minds have since undergone a great change. Several of the members avowed a theoretic preference for monarchical government, and one of the ablest men in the body had strong doubts about the efficiency and endurance of any other. In the early discussions relative to the fundamental principles of the Constitution about to be formed, Mr. Hamilton submitted

his views in a paper carefully prepared, the principles of which he explained and defended in a long and able speech.

In this plan he proposed that the members of the second branch of the Legislature (the Senate) should hold their seats during good behavior, and that the Chief Magistrate, whom he proposed to call Governor, should hold his office by the like tenure, he not deeming any shorter or more precarious term of office sufficient to secure to these two important branches the requisite independence against the excesses and encroachments of democracy.

It has seemed strange to some that a mind like that of Alexander Hamilton, exhibiting proofs of such ability as he has done in his masterly report on the finances of the United States; on the mint, the bank, and above all, in that on manufactures, to which its anxious friends have, for thirty or forty years, not been able to add an argument—that a mind so powerful and well endowed should have more than doubted the success of a plan of government which has given to the American people peace, safety, glory, and prosperity beyond the most sanguine hopes of its authors, is regarded by some as a curious intellectual phenomenon. The solution of it, however, is to be found in the circumstances of the times.

The pressure of the war and the issue of paper-money had not only produced, as we have seen, general pecuniary distress, but had also occasioned a laxity of morals on the subject of debts and property; and these consequences of a particular course of events were regarded by many as mere manifestations of human nature in general, against which a wise government should especially guard. The insurrection in Massachusetts, the clamor for further issues of paper-money in many of the States, and for

unjust tender laws—the natural result of the impoverishment and demoralization caused by the Revolutionary struggle—were ascribed to the spirit of democracy, which then had a more unrestrained action, as is apparent from many passages in the debates; and that spirit was deemed, therefore, to require strong and efficient checks. Nor did they who thus reasoned seem fully to appreciate the self-healing virtues which, in the body politic as well as the body natural, cures more diseases than the physician or statesman. Hence the unfavorable auguries which Mr. Hamilton and a few others conceived of the new government, and which differed in so many essential points from that form of government which eminent foreign, as well as British, writers had made the theme of elaborate panegyric. It is no just reproach to these men that they were mistaken on a subject in which experience is the only safe guide, and in which the most astute minds, trusting solely to their own speculative reasonings, have proved, on trial, so utterly incompetent.

While Mr. Hamilton did not think favorably of republican government, and with manly frankness stated his views, he with the same lofty integrity and patriotism aided in carrying the government into execution, and contributed, when it went into operation, more than any other individual, to make it stable, practical, and efficient. He avowed, that though he did not approve of the plan of government adopted, he was determined, so far as he could, to give it a fair chance; and no one could, according to his notions of good government, have more faithfully carried out his purpose.

We have now followed the deliberations of the convention in forming the principal features of the new Constitution, which were the result partly of the settled opinions



of a majority of the members, and partly of mutual concessions.

The more essential part of their arduous labors having thus been brought to a close, a committee of five was appointed to revise the style, and arrange the articles of the Constitution; and on the twelfth of September, the committee made their report. After undergoing some minor amendments and alterations, it was adopted and signed on the seventeenth of September, by all the members present except three, Messrs. Randolph and Mason, of Virginia, and Mr. Gerry, of Massachusetts.<sup>1</sup>

Mr. Randolph having expressed his dissatisfaction with the large grant of powers to Congress, proposed that the State conventions might suggest amendments, to be decided on by another general convention. Unless this were done, he could not put his name to the instrument.

<sup>1</sup> The plan of this work allowed the author to give but a summary view, and he fears a very imperfect one, of the memorable convention which settled the fundamental polity of the tens, perhaps hundreds, of millions who are to constitute this confederate republic. Those who desire to see its proceedings more in detail will have their wishes amply gratified by referring to Mr. Madison's very copious history of its acts and debates. Though that able statesman took a leading part in the deliberations and discussions of the convention, he found time to report, with minuteness and accuracy, not only all which was enacted by that body, but also (what is often equally interesting) all that it refused to enact; and by giving the propositions and the reasons of the individual members, he has traced the process of every provision from its first suggestion until it was finally matured. He thus exhibited a degree of patient labor, of which, under similar circumstances, there is, perhaps, no example. In the discharge of the arduous duty he had undertaken, which continued for four months, he says that "he was not absent a single day, nor more than the casual fraction of an hour in any day."—II. Madison's Debates, page 719.

Mr. Mason took similar ground. The Constitution had been formed without the knowledge or idea of the people. He could not support it in Virginia, or sign it here. After another convention, he could sign.

Charles Pinckney spoke of the danger and confusion that would arise from a second convention. He had several objections to the Constitution, but should support it, from the danger of a general confusion.

Mr. Gerry stated, in detail, his reasons for withholding his name. First, the duration and re-eligibility of the Senate; second, the power of the House of Representatives to conceal their journals; third, the power of Congress over the places of election; fourth, their unlimited power over their compensation; fifth, that Massachusetts had not her full share of Representatives; sixth, that three-fifths of the blacks are to be represented; seventh, that under the power of regulating commerce, monopolies may be created; eighth, the Vice-President is made the head of the Senate. These he could have been reconciled to, if the rights of the citizens were not rendered insecure — first, by the power of the Legislature to make what laws they deem “necessary and proper;” secondly, to raise armies without limit; thirdly, to establish a tribunal without juries — he therefore thought it best to provide for another general convention. To Mr. Randolph’s proposition, all the States answered no. To the question of agreeing to the new Constitution, all answered ay.

On the seventeenth of September, Mr. Wilson read a written speech, which Dr. Franklin had prepared, in favor of adopting the Constitution; though there were several parts which he did not approve, but he was not sure he should never approve them.

Mr. Gorham proposed there should be a change in the

limitation of the number of Representatives, from one to forty thousand to from one to thirty thousand.

General Washington spoke in favor of it. It was unanimously adopted.

Mr. Randolph apologised for still refusing to sign, adding he did not know that he should oppose the Constitution without doors. He meant merely to leave himself free.

Mr. Gouverneur Morris and Mr. Williamson both expressed their intention of signing, though they had objections.

Mr. Hamilton expressed his anxiety that every member should sign. No man's ideas were more remote from the plan than his own; but he could not hesitate between anarchy and convulsion, and the chance of good to be expected from the plan.

Mr. Gerry feared a civil war might result from the present crisis. There were two parties in Massachusetts: one devoted to democracy, the worst of all political evils; the other as violent in the opposite extreme.

The journals were deposited with the President, subject to the order of Congress, if one should be formed under the Constitution.

Let us now return to the proceedings of that Congress, whose functions it was proposed to supersede by the new Constitution.

On the seventh of May, by an ordinance unanimously passed,<sup>1</sup> five Commissioners were appointed to settle the accounts of the different States with the United States, with large discretionary powers in the admission of evidence; for which purpose the thirteen States were arranged into five districts.

The ordinance of 1784, for the government of the ter-

<sup>1</sup> XII. Journals of Congress, page 44.



ritory north-west of the Ohio, being found objectionable and defective, on the seventeenth of July, 1787, another ordinance for the government of the territory was reported by the committee,<sup>1</sup> and passed unanimously on the thirteenth.

Among other provisions, it proposes to form not less than three, nor more than five States out of the territory; Virginia having first altered her act of cession in conformity with this ordinance. It also ordains the perpetual prohibition of slavery in the territory, in conformity with the proposition made by Mr. Rufus King, in March, 1785.

It is understood that this ordinance was drawn by Mr. Nathan Dane, of Massachusetts, one of the committee.

On the ninth of August, South Carolina made a cession of her claims to western territory lying west of the State to the Mississippi, her boundaries having been previously settled by an agreement with Georgia, executed during the current year.

On the twenty-eighth of September, a copy of the proposed Constitution was received from George Washington, of the convention, and signed by thirty-eight members.<sup>2</sup> It was the next day resolved that it should be submitted for ratification to conventions of the States; and, if ratified, that a day should be appointed for the choice of electors, and for the meeting of those electors to elect a President, who should transmit their votes, as the Constitution requires, to the Congress elected under the new Constitution.

The Constitution and the President's letter were ordered to be sent to the State Legislatures.

<sup>1</sup> XII. Journals of Congress, page 57. For the ordinance, see Appendix No. IV.

<sup>2</sup> Appendix No. V.

An order made for the admission of Kentucky into the Union, pursuant to an act of Assembly of Virginia, of 1785, express their opinion that it ought to be admitted into the Union when the new Constitution, now ratified by nine States, shall go into operation.<sup>1</sup>

On the fifteenth of July, 1788, Congress referring to an act of cession of Georgia of western lands, on certain conditions, resolved that the United States ought not to accept the cession on the terms proposed.

On the second of September, Congress appointed a day for choosing electors in the several States which had ratified the Constitution; a day for those electors to assemble and vote for President; and the first Wednesday in March for commencing proceedings under the new Constitution.

There was some disagreement in Congress about the place of meeting, or the seat of government, under the new Constitution; and various propositions were made and rejected. They finally decided on New York, where they were then sitting.

A long report from a committee of finance was made on the thirtieth of September.

The committee say that large sums of the money received in France have not been accounted for, and that the subject is involved in darkness. Of forty-seven millions of livres received, only twenty-seven millions have been accounted for, leaving about nineteen millions for which there are no vouchers.

In the conventions of the several States for ratification of the new Constitution, it was closely investigated in some of them, and with great difficulty ratified. In others, it seemed to have been accepted without difficulty.<sup>2</sup>

<sup>1</sup> IV. Journals of Congress, page 830.

<sup>2</sup> For the order and dates of the several ratifications, see App. No. VI.

In the election of President and Vice-President, George Washington having received the unanimous vote of the electors, and John Adams a majority, the former was, under the new Constitution, elected President of the United States, and the latter, Vice-President; and on the third of March, 1789, the functions of the old Congress expired, after an existence (remitted only by occasional adjournments) of fifteen years—a body which varied greatly in character from the change of its members, its functions, and its duties. At first, when it deliberated on the vindication of the colonies, and on their separation from the parent State to which they were attached by so many ties, it exhibited a degree of disinterested patriotism, of talent, and of practical wisdom, which has been rarely equalled. That was truly the most glorious period of its history. Then, when it devolved on this assembly to conduct a people without money or arms, in a war against the nation most able to make them feel its power; when they contracted alliances with the greatest potentates of Europe; and, under such unfavorable circumstances, conducted the war to a successful termination, they acquired, in the eyes of the world, yet greater reputation, though they may have manifested less exalted virtue or patriotism to the closer inspection of their countrymen;—the personal jealousies, rivalships, and intrigues, from which no deliberative bodies are entirely exempt, being known to mingle themselves in, their deliberations and measures at this period.

After the war was closed, or rather after Cornwallis was captured, and peace was confidently anticipated, their principal functions had sunk down to the duty of providing funds to meet the most pressing demands of the treasury, or to carry on an unprofitable diplomatic intercourse with some of the nations of Europe. The



post of a member, no longer recommended as the means of winning popularity, or of gratifying ambition, often fell into the hands of men, who, with few exceptions, were inferior in standing or talents; and the members, shrinking from the irksome office of making requisitions which were unheeded by the States, and of listening to claims which they could not satisfy, were irregular in their attendance, and often unable to form a quorum; so that the body gradually lost much of its former weight and dignity: and thus it might be said of THE OLD CONGRESS which had been the guiding light to the American people in their arduous path to independence, that its morning was bright and glorious; its long day of trial which followed was alternately overclouded and effulgent; but, as it descended to the horizon, its dim orb was scarcely seen in the rising splendors of its successor.

## CHAPTER V.

### WASHINGTON'S ADMINISTRATION.

#### FIRST TERM.

1789—1793.

WHEN the Federal Constitution was formed, and about to go into operation, the American people had made another great step in its onward progress. The several States, bound together only by the ties of affinity and neighborhood, by having been colonies of the same empire, all agreed to give up a portion of their newly-acquired sovereignty and independence, to secure, as a Confederated Republic, present safety and prosperity, and to lay the foundations for future greatness.

The country, now buoyant with hopes, in proportion to the dangers it had recently escaped, and the evils it even then encountered, looked forward with impatience to the meeting of the first Congress under the new Constitution. The officers of the army, who had not made sale of their unsatisfied claims, saw in the new government, provided as it was with unlimited powers of taxation, the prospect of justice from their country. The other public creditors, who were generally people of property and influence, looked forward to have their claims doubled or even quadrupled in value. The merchant and ship-owner confidently expected protection from the discriminating duties and navigation laws of other countries; and even the small manufacturing class hoped for the encouragement of a protective impost. The agricultural

class, without looking for any immediate benefit from legislation, naturally expected to share in the general prosperity, and to profit by an improvement of the markets, both foreign and domestic. In the cities, especially, where these benefits were more fully appreciated, there were pompous and costly demonstrations of the general joy.

But it must not be supposed that these favorable sentiments, and pleasing anticipations relative to the new government, were universal. Far from it. There were not a few in all the States who viewed that government with undisguised fear and disapprobation. With the mass of the people, to whom most of the members of the convention were strangers, it was as a foreign government, or at least an untried novelty, and was regarded by them without affection or confidence; and men of mere local influence felt themselves humbled by the superior power and importance of the federal functionaries. There were even some who saw, in a President, Senate, and House of Representatives, the British government plainly foreshadowed, and honestly apprehended that the Federal Executive might, by gradual changes, be converted into a king. Monarchical government was known to be in favor, in the abstract, with many; several members of the Federal Convention had so expressed themselves; and Patrick Henry had remarked, in the Virginia convention, that the new Constitution had "an awful squinting—it squinted at monarchy."

Those who entertained these sentiments were soon marshalled into a party, and from their opposition to the new Federal government, were called anti-Federalists; but inasmuch as they preferred a purely federal union to one of a consolidated or national character, they might, with more propriety, have been termed Federalists than their



opponents, who favored all the national features of the new Constitution. These two parties were first distinctly formed during the discussions in the State conventions, and constituted the leading political division for several years.

Though the fourth of March was appointed by the new Constitution for the meeting of the Federal Congress, it was the first of April before there was a quorum of the House of Representatives. On that day, Frederick Muhlenburg, member from Pennsylvania, was chosen Speaker, and John Beckley, Clerk. Of the members of this first Congress, eight of the Senators had been in the late Federal Convention, who were: Langdon, of New Hampshire; Ellsworth and Johnson, of Connecticut; Rufus King, then of Massachusetts, but now of New York; Patterson, of New Jersey; Carroll, of Maryland; Butler, of South Carolina; and Few, of Georgia. There were also eight members of the convention in the House: Gilman, of New Hampshire; Gerry, of Massachusetts; Sherman, of Connecticut; Clymer and Fitzsimmons, of Pennsylvania; Carroll, of Maryland; Madison, of Virginia; and Baldwin, of Georgia.

One of the first acts of the National Legislature was to count the votes which had been given by the electors of the President and Vice-President. The result was immediately communicated to the newly-elected officers. The second day after General Washington was thus officially informed of his election, he set out from Mount Vernon, his place of residence in Virginia, for New York. In all the towns he passed through, in his journey from Virginia, he was received with an enthusiasm which knew no bounds. When he appeared in sight of New York, on the twenty-third of April, its spacious harbor was covered with vessels and boats of every description,

decorated with gay flags, and moving in every direction, while the air was rent with the music of the numerous bands, the discharges of cannon, and the yet louder huzzas of a people in a delirium of delight and exultation.

On the thirtieth of April, the new President took the oath of office, and delivered an address to both Houses of Congress, in which he thought proper to justify himself for again entering into public life, after having taken formal leave of it. He expressed devout thanks for the visible agency of Providence in the past progress of the United States to independence; and he excused himself to the new government just established for not recommending particular subjects to their consideration, which he thought, on the present occasion, unnecessary. He then, in conformity with his past practice, declined any personal emolument from his office; and he asked that the pecuniary estimates for the station in which he was placed "should be limited to such expenditures as the public good may be thought to require."

Cordial and complimentary responses were made by both Houses to this address, and they forthwith proceeded to the execution of their high duties of putting the new government into operation. But as a preliminary measure, the temporary heads of departments were required to furnish to Congress accurate information of the existing state of public affairs.

According to the information then given, the treasury was empty, though the claims on it were very heavy, and were daily increasing. The amount of public debt, foreign and domestic, at the end of the year 1789, would be about forty-two millions of dollars, of which eleven and a half millions were due abroad. Justice, honor, and policy, as well as national gratitude, all required that adequate provision should be made for these creditors.

The condition of the new settlers in the West also presented a cause of solicitude. Spain held the land on both sides of the Mississippi, near its mouth; and the town of New Orleans being the only commercial post on the river, she was able to open or close it to the people of Kentucky and other Western settlers as she thought proper. Since this river furnished to them the only outlet for the raw produce yielded by their teeming soil, the navigation of it was of the last importance to them; and they had exhibited the most anxious impatience to have it secured to them by treaty. Spain, however, as we have seen, had always refused to grant them this privilege; and, in the desire to make a commercial treaty with that nation, some of the Atlantic States had been willing to concede to Spain the exclusive right of navigating the river for twenty-five years. Though this offer failed for want of the support of the requisite number of States, the disposition that had been thus manifested to sacrifice the interests of the Western country, had excited lively resentment with the people of Kentucky, and had even led some of her citizens to open a negotiation with the Spanish minister, Gardoqui, to which he was nothing loth, towards a separation from the Atlantic States. General Washington had learned, just before he left Mount Vernon, that these discontents in the West had been fomented both by Spanish and British agents, but with very different objects — Spain wishing to effect a separation of the Western States, with some hope of attaching them to her dominion; and Great Britain proposing to aid them in making a conquest of New Orleans, and in fortifying the mouth of the Mississippi.

Many of the neighboring Indian tribes had shown symptoms of hostility to several of the States. Between the great Lakes, the Mississippi, and the Ohio, there were



computed to be five thousand fighting men of this race, about one-third of whom were at open war with the United States. With the residue there were treaties; but these being liable to be broken at any time by individuals of either party, furnished no security for the continuance of peace.

Of the Barbary powers, a treaty had been made with Morocco alone; and, consequently, the commerce of the United States in the Mediterranean afforded to Algiers, Tunis, and Tripoli, a temptation which was not likely to be long resisted. The foreign commerce of the United States was then on a most disadvantageous footing. Under the regal government, the colonies had carried on an extensive and profitable trade with the British West Indies; and so indispensable to them were many of the articles thus furnished, that, immediately after the peace of 1783, Mr. Pitt was willing to enter into negotiations for the renewal of the former trade; but soon finding that, for want of a concerted system of action, the States could not retaliate the commercial restrictions of Great Britain, that measure was declined, and all overtures for a treaty of commerce were unhesitatingly rejected. The vessels of the States were interdicted from all trade with the British colonies, and none of the productions of those colonies were allowed to be there imported into the States, even in British vessels, except lumber and bread-stuffs, which they could not easily procure elsewhere.

Efforts had been also made to negotiate commercial treaties with other European powers; but they had been attended with little success. The failure with Portugal was attributed to the influence of Great Britain, as were also the hostile incursions of Indian tribes; nor had the commercial intercourse with France, who, like the other

nations of Europe, insisted on a monopoly of the trade with her colonies, afforded the benefit that America had fondly expected.

Such was the condition of the United States as to foreign countries, at the time that their new government was to go into operation, and Congress was about to organize its different departments; to provide an adequate revenue; and to regulate its commerce.

The first subject of legislative discussion in the House of Representatives, after they had a quorum in attendance, was the impost, which was brought forward by Mr. Madison. After adverting to the inability of the old Congress to provide the revenue which the justice and honor of the country so imperiously required, he proposed, as a temporary system, to lay duties, partly specific, partly *ad valorem*, in conformity with those proposed in 1783, which had been generally approved; and tonnage duties, in addition, with a discrimination, however, between the ships of the United States and those of other countries which had treaties with the United States and those which had not.

Mr. Lawrence, of New York, was in favor of a general *ad valorem* duty on all imports, as a more practical plan of revenue than one of specific duties.

Mr. Fitzsimmons, of Philadelphia, preferred specified duties. He denied that they presented any practical difficulty, and urged that they encouraged the productions of the country, protected its infant manufactures, and, in some cases, operated as sumptuary restrictions on the consumption of articles of luxury. He offered, by way of amendment, a resolution which contained an enumeration of the articles deemed by him fit subjects of specific duty.

Mr. Madison accepted the amendment; but while he

approved of a qualified encouragement to manufactures, as one of the exceptions to the doctrines of free trade, he thought the attention of Congress should, for the present, be confined principally to the object of revenue.

These resolutions, and the bill subsequently introduced in conformity with them, gave rise to a desultory discussion on the details of the system, which continued with little intermission for six weeks. The principal questions discussed were, whether the system then adopted should be temporary or permanent; whether there should be only one uniform *ad valorem* duty, or specific duties in addition; whether, in case the latter course was adopted, the dutiable articles should be confined to the list in the plan of 1783; what should be the precise rate of duty on particular articles; whether, in laying the tonnage duties, a discrimination should be made in favor of the nations having treaties with the United States; and lastly, whether the system then adopted should be limited to a certain term of years: on all of which questions there was a great diversity among the members, principally from the supposed diversity of interests of their respective constituents; but partly, also, from the different views of policy entertained by individual members.

The principal speakers in this protracted debate were Messrs. Ames, Gerry, Goodhue, and Thatcher, of Massachusetts; Sherman and Wadsworth, of Connecticut; Lawrence, of New York; Boudinot, of New Jersey; Clymer, Fitzsimmons, Hartley, and Scott, of Pennsylvania; Carroll and Smith, of Maryland; Bland, Lee, Madison, Page, Parker, and White, of Virginia; Burke, Smith, and Tucker, of South Carolina; Baldwin and Jackson, of Georgia.

The bill laying impost and tonnage duties, with large discrimination in favor of American vessels, and a smaller



one in favor of nations having treaties with the United States, and to remain in force till the first day of June, 1796, passed on the sixteenth of May; and, notwithstanding the opposition which its most important provisions had experienced from some quarter or other, such was the spirit of compromise which then prevailed, and the conviction that every one had of the urgency of the measure, that it passed without a division.

Some of the proposed duties then deemed of great local importance, from the pertinacity with which they were opposed, are well calculated to remind us, by their seeming insignificance at the present day, of the progress the United States have since made. Thus, a duty of six cents a gallon on molasses was proposed, by way of laying a tax on the rum distilled from it; and it was vehemently opposed by all the delegation from Massachusetts, on the ground that it would operate most oppressively on the men engaged in the fisheries, each of whom consumed twelve gallons of molasses; and that it would produce disaffection towards the Federal government.

"I fear," said Mr. Ames, "we shall destroy the fond hopes entertained by our constituents, that this government would ensure their rights, extend their commerce, and protect their manufactures. Mothers will tell their children, when they solicit their daily and accustomed nutriment, that the new laws forbid them the use of it; and they will grow up in a detestation of the hand which proscribes their innocent food, and the occupation of their fathers. The language of complaint will circulate universally, and change the favorable opinion now entertained to dislike and clamor."<sup>1</sup>

The members of South Carolina were as strenuously opposed to the tax of six cents a bushel on salt, as threat-

<sup>1</sup> I. Gales & Seaton's Debates, page 234.

ening the like oppression and disaffection with the citizens of their State.<sup>1</sup>

Mr. Scott, of Pennsylvania, who concurred in these views, stated that the price of salt in the western part of that State, was four dollars a bushel.

Many other facts stated in the debate forcibly impress on our minds the changes which time has since brought about. Thus, a member from Virginia, after stating that there were coal-mines opened in Virginia capable of supplying the whole United States, and requiring nothing but a duty on foreign coal for them to be worked to advantage, proposed a duty of three cents a bushel.

Mr. Hartley, of Pennsylvania, objected to this as too discouraging to manufactures, and proposed a duty of one cent.

In discussing the duty it would be proper to lay on hemp, doubts were expressed by several members whether it could be cultivated to advantage in the United States. But a member from South Carolina, Mr. Burke, was in favor of a moderate duty on it, as an article of culture particularly suited to the rich rice lands of that State — remarking, that it was hoped the cultivation of cotton would be successful, if good seed could be procured. The whole tonnage then employed in the trade of the United States was six hundred thousand tons, of which two-thirds were American, and three-fourths of the residue were British.

This impost bill, the first passed by the Federal Congress, was the beginning of that policy of encouraging domestic manufactures by taxing those imported from other countries, which has since given rise to so much controversy, in and out of Congress, and in which the strife has been more bitter and serious, because the

<sup>1</sup> I. Gales & Seaton's Debates, page 167.

policy so differently affects the interests of the Northern and Southern divisions of the Union.

But in laying specific duties with a view to foster American manufactures, the States which were only consumers of such manufactures endeavored to reduce the duties, on the ground that they bore unequally on the States, or that their pressure would be peculiarly heavy before the country had recovered from the effects of a desolating and exhausting war. It is, however, worthy of remark, that, while the Southern and non-manufacturing States saw as distinctly then as they have ever seen since, that they were to be uncompensated losers by a protective policy, which was avowedly intended to benefit the manufacturing classes, exclusively inhabiting the Northern and Middle States, not a word of objection to the obnoxious measure was made on the ground of its unconstitutionality.<sup>1</sup>

The ground taken by Mr. Madison in justification, and which was apparently acquiesced in, was, that "manufactures had been reared up by the fostering care of the State Legislatures, manifested in the shape of protective duties; but that the people, by the adoption of the Constitution, had put it out of the power of the States to continue such duties; so that manufactures would be without their accustomed protection, unless it could be afforded by the General government."

In the Senate, the clause making a discrimination in favor of the nations which had treaties with the United States was struck out; and this amendment, after a conference between the two Houses, finally prevailed.

The next subject which engaged the attention of Congress may seem, to the present generation, not to deserve the notice bestowed on it. A committee of the Senate

<sup>1</sup> I. Gales & Seaton's Debates, pp. 164-303, 307.



was appointed to determine what title it would be proper to annex to the offices of President and Vice-President of the United States; and a committee of five was appointed by the House to confer with a committee of the Senate.

Mr. Benson, from the committee appointed by the House, having reported that it was not proper to annex any style or title to those expressed in the Constitution, the same was agreed to by the House.

In the Senate the report was disagreed to. On the motion, whether the Vice-President should be addressed by the title of "His Excellency," it was negatived. Another committee was then appointed to consider and report the title for the President, and to confer with a committee of the House of Representatives; which was accordingly done, but the committee of conference was not able to agree. The committee of the Senate then recommended that the President should be addressed as "His Highness, the President of the United States, and Protector of their Liberty;" but the Senate, instead of adopting the recommendation of the committee, resolved, after a preamble in favor of titles of respect, for the sake of harmony, that the address should be to the President of the United States, without addition of title; since which time the subject has never been stirred in Congress, and the proper style of address to the Chief Magistrate may be considered as settled.

This was one of the circumstances which contributed to strengthen the belief of many that some of the supporters of the new government had views unfriendly to republican simplicity and equality.

While the impost bill was under consideration in the Senate, the House of Representatives was engaged in organizing the several executive departments; and having

decided that there should be a Department of Foreign Affairs (since called the Department of State), a Treasury Department, and a Department of War, the House proceeded to discuss the question whether the secretaries or heads of these several departments should be removable by the President, without the concurrence of the Senate: on which Messrs. White, Page, and Blair, of Virginia; Smith, of South Carolina; Jackson, of Georgia; Gerry, of Massachusetts; and Livermore, maintained that the power of removal was not given to the President by the Constitution; while Madison and Lee, of Virginia; Thatcher and Goodhue, of Massachusetts; Boudinot and Sylvester, of New Jersey; and Vining, of Delaware, insisted that, on a fair construction of that instrument, the President possessed such power. The committee decided, by a large majority, in favor of the power.

But, three weeks later, the same discussion was renewed in the Committee of the Whole, and was continued for four days between those members who were inclined to an energetic Executive, and those who, jealous of the Federal power generally, and of that branch of it in particular, were desirous of circumscribing it.

The members who objected to the power of removal in the President alone, maintained, that the Constitution being silent on the subject of removal from office, except in cases of impeachment, it was a fair inference that the same concurrence of the Senate which was necessary in appointing an officer should be requisite to remove him, according to the general rule that the power of removal is incident to that of appointment — there seeming to be as much reason for this check on the President's power in one case as in the other. They add, that if this power is given by the Constitution to the President alone, a declaration of it by Congress is unnecessary; and if it is

not given, the declaration is void: that if it is an omitted case, as some contend, the defect can not be supplied, by the Legislature, but only by an amendment to the Constitution; but if the power can be fairly implied, it is more reasonable to make that implication conform to the express provision which requires the concurrence of the Senate, than to make it in conflict with that express provision: and lastly, that if it is a doubtful power, and dependent on a sound construction of the Constitution, it is a question to be settled by the judiciary.

In answer to some of the arguments on the other side, it was denied that the appointment and removal of officers are exclusively Executive acts, since they are, in republican governments, as often exercised by its Legislative as by the Executive branches; but, supposing they were purely Executive in their character, then it must be recollected that a part of this executive power is expressly given to the Senate. The power thus inconsistent with the Constitution is highly dangerous and inexpedient. The power of removal, at the sole discretion of the President, would make all the executive officers obsequious to his will; and since he has the command of the army and navy, if those who have charge of the treasury were also to be subject to his control, he would, by thus uniting the power of the purse with that of the sword, in fact have the attributes of a monarch, and would, in time, become one. In such a state of entire dependence on the will of a single individual, no man of a manly, independent spirit, would accept office; which would be, therefore, engrossed by those who would pay for its emoluments by their servility: that the Senate is a more permanent body than the President; and from its numbers, as well as its longer experience, likely to have more wisdom, and is far less exposed to the temptations of political ambi-



tion. In answer to the objection that the Senate might refuse to remove an officer who had lost the confidence of the President, they said that an officer might be suspended while his case was under consideration in the Senate, and his place be temporarily filled by another. It was also urged that the President might not only remove good men from office, but sometimes, by a timely removal, screen a delinquent from a threatened impeachment; and that the inconvenience of collisions between the President and the Senate might be greatly lessened by giving to the appointments a short duration.

Those who asserted the power of removal to be possessed by the President alone, insisted that, although the power was not expressly given, it might be fairly inferred from that instrument.

They said, that while the Constitution provides for the removal of officers for crime, it did not thereby mean that they were not also to be subject to removal on other accounts; for, besides the absurdity of keeping a man in office after he had shown himself incompetent to discharge its duties, the clause which secures to one class of public officers (the Judges) an appointment during good behavior, plainly shows, that, but for this provision, they would have been removable at pleasure. Such, then, is the tenure of all the officers, whose term is not designated by the Constitution; and the question is, at whose pleasure do they hold office? at that of the President alone, or of the President and Senate?

It is denied, *in limine*, that the power of removal is incident to the power of appointment. The two powers are often separated, as is the case with the President himself, who is appointed by electors; and the Judges, who are removable only by impeachment. But, supposing the implication just, who, it is asked, makes the appoint-

ments? It is the President alone. The Senate may, indeed, by refusing their assent, render an appointment unavailing, yet it is the President alone who makes it. As the two Houses of Congress enact laws, though it is in the power of the President to annul those legislative acts which are not supported by two-thirds of the members.

There are other provisions in the Constitution which show that the power of removal can be properly exercised only by the President. The executive power generally is vested in him, and he may, by virtue of this provision, exercise all executive acts, where his power is not expressly restricted, as it is in requiring the concurrence of the Senate in making appointments; and this, for obvious reasons, since it is only by having control of his agents, that he can faithfully and efficiently execute the great trust reposed in him. Nor is this duty left to inference, as he is expressly and imperatively required to see the laws faithfully executed, which cannot be done unless he be allowed to choose agents who have his confidence, and who are cordial in their co-operation, as well as honest and able. Should he be required to rely on men whose capacity or fidelity he distrusts—who are leagued with his rivals and enemies, or who may be rivals and enemies themselves?

But those who insist on the concurrence of the Senate in removals, seeing the gross incongruity of a person continuing in an executive office against the wishes of the President, after he has openly declared his want of confidence in the officer, propose that such officer should be temporarily suspended, until the Senate decided on his case; but where do they find this power of suspension in the Constitution? and if considerations of policy warrant the implication of such power in the President, they equally authorise it in the case of removal. But, again,

suppose that, after an officer has been suspended, if the Senate still decides on keeping him in office, do not all the evils which the suspension was meant to avoid, recur with redoubled force, by the irritations which have been increasing in the interim?

The general rule being that executive powers are to be exercised by the President, the concurrence of the Senate in appointing must be regarded as an exception, and exceptions should always be construed strictly.

Nor is it admitted that this is purely a judicial question. The other branches of the government have the same right to pass judgment on their own powers, as the judiciary, and very often they cannot discharge the functions assigned to them, without making these decisions for themselves.

This construction of the Constitution, they further urged, receives strong confirmation from considerations of policy. Unless the Executive has the power of appointing his officers, which comprehends that of removal, his responsibility for the faithful execution of the laws is at an end; the acts of the Executive are without harmony or consistency; and the power which was meant to be exclusively given to the President, of nominating his officers and deputies, is thus rendered unavailing.

It is denied that the Senate is more worthy of the public confidence than the President, since he is 'chosen virtually by the people, and they by the deputies of the people. It will be rare that he will have any motive for removing a good man from office, and even if he should, the public mischief would be far greater for bad men, by the influence of intrigue and faction, to be retained, especially as we must admit that when a good man has been removed, another as good may be put in his place,



by means of the check exercised by the Senate. But again: should he abuse the power of removal, besides the public odium he would incur, he would be liable to impeachment.

On the question whether the words "removable by the President," should be struck out, it was decided in the negative by thirty to twenty-four.

Subsequently the language was changed, so as to avoid the appearance of a grant of power by the Legislature; whereupon a motion was again made to strike out the words, "removable by the President," and insert, "whenever the principal officer shall be removed by the President;" which was then carried by thirty-one votes to nineteen—some voting in the affirmative, because they did not consider officers so removable; and others, because they would not seem to grant a power already given by the Constitution.

In addition to those who took part in the first discussion, in the subsequent more warm and elaborate debates, Messrs. Ames, Sedgwick, Hartley, Scott, Lee, and Baldwin, spoke in favor of the President's power of removal; while Messrs. Huntingdon, Sherman, and Stone, were opposed to it.

As a further answer to those who thought the consent of the Senate necessary to the removal of an officer, and who relied mainly on the necessity of that consent to an appointment, it may be remarked that there is a wide difference between the case in which the power is expressly given, and that in which it is implied. For, by the former, the Constitution requires the joint consent both of the President and Senate to every appointment, and gives to the President exclusively the yet more important power of selection; thus making it an express fundamental principle, that no man should be

appointed to office without the approbation of both President and Senate, and giving to him the largest share in the appointment. If, however, the President discovers that he has been mistaken in an officer's qualifications, or if friendly relations do not continue between him and the officer, and he wishes that officer removed, then, should the Senate have the power of preventing the removal, a man would be kept in office against the consent of the President, and thus the fundamental principle which requires the consent of both is violated; and his power, which is by far the greatest, and most important to a faithful co-operation in the execution of the laws, is defeated: whereas, if the President alone can remove, then, in any subsequent appointment, the consent of the Senate is still required, and that fundamental principle is preserved.

This was one of the first cases, greatly multiplied since that time, in which men in Congress and out of it differed about the meaning and construction of the Constitution recently made; and it would seem from all experience that, in every case in which a rule for future action is prescribed, from the last will and testament of an individual to a national Constitution, it is beyond the wit of man to devise any form of words which may not give rise to doubt and disputation. This inherent ambiguity in all written rules arises partly from the imperfection of language, by which the same words convey different ideas to different minds; and partly because cases are ever arising, which, not being foreseen by those who made the rule, there is some uncertainty in its application; but, more than all, the great source of collision in the interpretation of written rules is, that the wishes and interests of men greatly influence their opinions; and, as their wishes and interests clash, so must their opinions.

From that time, the question of the President's power to remove officers was considered as settled, and the subject was not again seriously discussed in the National Legislature until the administration of General Jackson, when some of the ablest men in Congress expressed doubts about the correctness of the principle decided in 1789, and were disposed to agitate it anew.

How far their sentiments on this occasion may have been biassed by party or personal considerations, this is no fit place to inquire.

When the committee proceeded to the consideration of the Treasury Department, Mr. Gerry strongly urged the advantage of putting the treasury under the management of commissioners, rather than under that of a single individual, on the several grounds that scarcely any one could be found who had the requisite skill and knowledge; that such an officer would be exposed to strong temptations to use the public money, which, if so disposed, he might do without control; and lastly, that, even if he proved incorruptible, he could not escape suspicion. In support of these views, he referred to the Board of Treasury, and to the single Head of finance, which had been severally tried by the old Congress.

Mr. Wadsworth pronounced that, from his experience, a Board of Treasury was the worst of all institutions, and that it had doubled the public debt; while, on the Superintendent of finance, he bestowed high encomiums.

Messrs. Benson, Baldwin, Madison, and Boudinot, were all in favor of a single head to the department.

Mr. Gerry's plan of a Treasury Board was rejected.

Mr. Madison's resolutions for the three Departments, of Foreign Affairs, Treasury, and War, having been adopted, a committee of a member from each State was appointed to prepare bills for the regulation of those departments.



When the bill for the establishment of a Treasury Department was under consideration, Mr. Page objected to that part which required the Secretary "to digest and report plans for the improvement and management of the revenue, and the support of public credit; which he said would prove a dangerous innovation on the constitutional privileges of the House; would create an undue influence; and would establish a precedent which might be extended, until the ministers of the government were admitted on the floor.

His views were enforced by Mr. Tucker, who thought that the duty of the officer should be limited to preparing and reporting estimates of the public revenue and expenditures; and that the proposed duty was inconsistent with that clause of the Constitution which declares that all bills for raising revenue shall originate in the House of Representatives. If plans of revenue are to be prepared and reported to the House, he insisted that the President, who is required to recommend measures to their consideration, was the proper person to suggest them.

Mr. Sedgwick regarded the objections to this bill as groundless; said that the identical words had been used by the former Congress, in 1783, and subsequently when the revenue board was established; and that the public would have been benefited, if the power had been more fully and frequently exercised.

The dangers apprehended from the proposed measure were thought visionary by Messrs. Boudinot, Madison, and Ames, but they were supported by Messrs. Livermore and Gerry; and though the motion to strike out the clause was rejected, it so far prevailed, that the amendment proposed by Mr. Fitzsimmons, to strike out the word "report," and requiring the Secretary only to *prepare* reports, was adopted by a large majority.

The bill organizing the War Department was adopted without opposition.

On the eighth of June, Mr. Madison having proposed to bring to the consideration of the House the amendments to the Constitution recommended by different States, the subject, after some discussion, was postponed until the more pressing business of organizing the Executive departments, and of providing a public revenue, was disposed of. He was, however, first permitted to submit to the House all the amendments which he wished adopted, because he deemed them additional safeguards to the public welfare, and from a proper regard for respectable portions of his fellow-citizens who wished for them. He did not deem bills of rights indispensable, but they might sometimes tend to check the undue exercise of authority: he regarded the legislative power as more liable to abuse than that of the Executive, for it is most exposed to abuse, and is the least under control: he thought, moreover, that some further restrictions on the powers of the States would be as salutary as those on the powers of the Federal government; such as prohibitions against passing *ex post facto* laws, bills of attainder, &c. The subject was then referred to a Committee of the Whole; but a few weeks later it was resumed, and a preliminary question presented itself, whether the amendments which might be adopted should be incorporated in the Constitution that had been ratified, or should be in the form of additional articles, as was proposed by Mr. Sherman. This course was adopted, and the Committee proceeded to consider the several amendments recommended by a majority of the Committee. Among those that were opposed were the following:

First. Instead of a member of the House of Representatives for every thirty thousand persons, Mr. Ames

wished to substitute forty thousand. His amendment was, however, rejected by a large majority, and thirty thousand was carried.

Second. That no law varying the compensation of members shall take effect, unless an election shall have intervened. This was carried by twenty-four votes to twenty.<sup>1</sup>

Mr. Tucker moved to add to one of the clauses in the bill of rights, that the people have a right to meet "to instruct their Representatives." But the sentiments of the members widely differed as to this doctrine; some considering the right itself as problematical, because they said a member represented not merely the district which elected him, but the whole community; while others maintained that instructions were not obligatory on the Representative, and that the practice was more fruitful of mischief than of benefit.

The motion was opposed by Messrs. Hartley, Clymer, Sherman, Madison, Smith, Stone, Ames, and Wentworth; and was supported by Messrs. Gerry, Page, Burke, Livermore, Lawrence, and Sumter, though these also differed on the binding character of the instructions. The amendment was rejected by forty-one to ten.

Mr. Burke proposed "that Congress should not alter, modify, or interfere in the times, places, or manner of holding elections of Senators or Representatives, except when a State should refuse, or neglect, or be unable by invasion or rebellion, to make such election;" which, after some discussion, was rejected by twenty-eight votes to twenty-three.

Various minor amendments, proposed by those who, viewing the power of the Federal government with jealousy and distrust, were rejected by the majority,

<sup>1</sup> These two amendments were not ratified by the States.



who regarded that government with more confidence and favor, until at length twelve amendments were recommended by two-thirds of both Houses to the Legislatures of the several States.<sup>1</sup> Of these, ten were ratified by three-fourths of those Legislatures, and thus became parts of the Federal Constitution. They were all restrictions on the power of the Federal government, or additional safeguards for the rights of the States, or of individuals, and were indicative of the political jealousy which so extensively prevailed.

While the House had been engaged on the impost, and in organizing the Executive departments, the Senate had prepared a bill to establish a judicial system for the Federal government, which was passed by the Representatives, not, however, without opposition from some of the anti-Federal party. Mr. Livermore strongly objected to the establishment of the Supreme Court.

The subject of the permanent seat of government having been taken up, a good deal of local jealousy was evolved; the members, with scarce an exception, being desirous of having the location as near to their own State as possible.

A bill was passed in the House, for establishing the government at some point on the Susquehanna, in the State of Pennsylvania, by a majority of thirty-one votes to seventeen; but the bill was amended, in the Senate, by substituting ten miles square about Germantown, near Philadelphia; and the bill having been returned to the House with an amendment, was there postponed for want of time.

On the twenty-first of September, on a report from a

<sup>1</sup> There was some disagreement between the two Houses as to the amendments, and after a conference, the points of difference were adjusted.

committee to whom the petition of the public creditors of Pennsylvania had been referred, the House adopted the following resolutions :

That an adequate provision for the support of public credit was important to the national honor and prosperity, and that the Secretary of the Treasury prepare a plan for that purpose, and report to the House at its next meeting.

He was further directed to apply to the Executives of the States for the statements of their public debts, of the funds provided for the payment, and of the amount of loan-office certificates and other securities, and report the same to Congress.

One consequence of the vigilant jealousy of the anti-Federal party was, that they had juster ideas than their opponents of the precise limits of the constitutional powers of the Federal government, and of what was congenial with republican institutions. It thus was opposed to giving titles of honor to the President ; and when it was proposed that a committee from both Houses should wait upon the President, and request that he would recommend to the people a day of public thanksgiving and prayer, two members of that party from South Carolina were opposed to it, as mimicking European customs, and as a matter that should more properly proceed from the authority of the States. The motion, however, prevailed. To this may be added the objection to the style of the writs issued from the Federal Courts, which, according to the bill from the Senate, were to be in the name of the President, but which the House of Representatives insisted should be in the name of the United States ; and after a conference between the two Houses, the Senate partially receded, and a compromise was effected. The principles on which this party acted on

these questions are so clearly, as well as comprehensively stated by Mr. Stone, of Maryland, that they may be here cited :

“He thought, that substituting the name of the President, instead of the name of the United States, was a declaration that the sovereign authority was vested in the Executive. He did not believe this to be the case. The United States were sovereign; they acted by an agency, but could remove such agency without impairing their own capacity to act. He did not fear the loss of liberty by this single mark of power; but he apprehended that an aggregate, formed of one in considerable power, and another in considerable authority, might, in time, lay a foundation for pretensions which would be troublesome to dispute, and difficult to get rid of. A little prior caution was better than much future remedy.”<sup>1</sup>

To this last we might, perhaps, also add the claim set up by the Senate for a higher rate of daily compensation than for the members of the House of Representatives. This claim being resisted by the House, committees of conference were appointed, but they were unable to agree, until, at length, Mr. Burke proposed that the House should agree to the Senate's amendment, by which Senators were to receive seven dollars a day, after the fourth of March, 1795, and the Representatives six dollars; but with the further amendment, that this clause should continue in force till the first of March, 1796, and no longer: which was carried by twenty-eight votes to twenty-six; and to this amendment the Senate agreed.<sup>2</sup>

In all these points of difference the anti-Federal party, whether they succeeded or not, seem to have anticipated

<sup>1</sup> I. Gales & Seaton's Debates, page 951.

<sup>2</sup> Ibid. page 926.



those sentiments which have since received the general sanction of the nation.

A majority of all parties, influenced by the poverty of the treasury, and the moderate rate of expense then prevalent in the country, agreed on a modest civil list, according to which, the compensation to the President was twenty-five thousand dollars; to the Vice-President, five thousand dollars; to the Chief Justice, four thousand dollars; the other Judges, three thousand five hundred dollars; to the Secretaries of State and of the Treasury, three thousand five hundred dollars each; to the Secretary of War, three thousand dollars; to the Attorney-General, one thousand five hundred dollars; to the district Judges, from eight hundred to one thousand five hundred dollars.

Besides the deviations from subsequent practice that have been mentioned, the President personally attended in the Senate when he wished the advice of that body on the subject of treaties. But the impropriety of this practice, which now seems so obvious to all, was soon perceived, and it was discontinued after the first session.

It was near the close of the session, before the President sent in his nominations of his cabinet to the Senate.

The first was that of Alexander Hamilton, as Secretary of the Treasury.

The talents and virtues of this gentleman had been long known to General Washington, whose aid-de-camp Hamilton had been; and though he had, in the convention, expressed a dislike almost contemptuous to the new Constitution, he had amply redeemed himself with its friends by his able vindication of it in the letters of Publius; and he seemed determined to give it a fair and candid trial. It is probable that, for the same reason it was so much an object of jealousy with many, it was

recommended to his favor; they regarding it as dangerously encroaching on the sovereignty of the States, and he as imposing on them salutary checks.

General Knox, of Massachusetts, who had been a brother soldier of the Revolution, and who was known to be a discreet man, with business habits, was appointed Secretary of War.

The office of Secretary of State was bestowed on Mr. Jefferson, then Minister to France. His talents as a legislator and statesman had been well proved in the old Congress, both in 1776, when he drafted the Declaration of Independence, and yet more eight years later, when he exhibited, in numerous reports, an industry and ability that had no equal in that body.

To Mr. Edmund Randolph was given the office of Attorney-General. He had presented to the convention that scheme of government which was the basis of the new Constitution; and although dissatisfied with some of its provisions, he was one of the three members who refused to sign it; but he compensated for his course on that occasion, by becoming one of the active supporters of the Constitution in the Virginia convention. Gifted with a very pleasing exterior and manners, and a ready elocution, he was extremely popular in Virginia, and had thus been made Governor of the State at an earlier period of life than is usual.

Mr. Jay was nominated as Chief Justice; and James Wilson of Pennsylvania, John Rutledge of South Carolina, William Cushing of Massachusetts, Robert Harrison of Maryland, and John Blair of Virginia, as Associate Justices: all which nominations as well as those to inferior offices, were confirmed by the Senate: and the government being thus put into active operation, and a revenue sufficient for the more pressing wants of the

government provided, Congress adjourned, on the twenty-ninth of September, to the first Monday of January, 1790.

In November, the new Constitution received the unqualified ratification of the State of North Carolina.

Congress had been adjourned to meet on the fourth of January (the first Monday), but it was the seventh before a quorum was formed. On the next day the President, from the chair of the Vice-President, addressed both Houses of Congress assembled in the Senate Chamber. The subjects recommended to their notice were: the organizing, arming, and disciplining the militia; and the encouragement of such manufactures as were essential for national defence. The western frontier, too, required protection from the threatened hostilities of Indians; a provision for a diplomatic intercourse with foreign nations; a general naturalization law; a uniform currency; the regulation of weights and measures; the advancement of agriculture, commerce, and manufactures, by all proper means; the encouragement of useful inventions; and a due attention to the post-office, were also recommended. The advantages of knowledge, especially to a free people, were dwelt upon; and whether it would be best promoted by affording aid to seminaries of learning already established, or by a national university, or by other expedients, he submits to the deliberations of the Legislature. Strong terms of approbation were used concerning the purpose manifested by the House of Representatives at the preceding session, of supporting the public credit.

The answers of both Houses to this address, being adopted without opposition, except in some slight verbal amendments, indicated entire harmony between the Executive and the members of the Legislature.



A letter from the Secretary of the Treasury stated that, in obedience to the resolution of the House, he had prepared a plan for the support of public credit, which he was ready to submit; and after some discussion whether the Secretary should make his report in writing, or in person, in answer to such inquiries as should be made of him, it was decided that it should be in writing.

In this report Mr. Hamilton, with great clearness and force, maintained that policy, as well as moral obligation, required the United States to preserve faith with the public creditors, and the rather, as the debt incurred by the American people was the price of their liberty and independence.

While all were agreed that the foreign debt should be provided for according to the terms of the contract, there was a difference of opinion as to the domestic debt, on two points. One was, whether there ought to be a discrimination between the original holders of the public securities and the present possessors by purchase. The other was, whether there should be any difference made between the creditors of the Union, and the creditors of the individual States.

The Secretary discussed both questions with his wonted ability, and was opposed to any discrimination in either case. He stated the public debt to be about seventy-nine millions of dollars, to wit: due to foreigners, near twelve millions; domestic debt due by the United States, forty-two millions; and due from the States, twenty-five millions; the interest on which, at six per cent., was four and a half millions.

This sum, in addition to the ordinary expenses of the government, would be beyond the resources of the United States without an extension of taxation, which the interests of the creditors forbade. Exigencies may, more-

over, arise which would still further endanger those interests.

He therefore proposed a reduction of the annual interest on the debt, on giving to the creditors an equivalent. That equivalent he thus explained. He assumed that, from the low rate of interest in Europe, and the funding of the debt in this country, interest would soon fall here to five per cent., and in twenty years to four cent. Of this fall the United States might readily avail themselves; but by stipulating not to profit by it for a certain term, the advantage would accrue to the creditor by the rise in the value of his stock.

In accordance with these views, he then proposed that a loan should be made to the United States to the amount of the whole public debt, on various alternative conditions presented to the choice of the subscribers to the loan. These were :

First. For every hundred dollars subscribed, payable in the evidence of the public debt, interest as well as principal, the subscriber should be entitled to have two-thirds funded at a yearly interest of six per cent., redeemable at the pleasure of the government, and to receive the other third in western lands at their actual value.

Second. To have the whole sum funded at four per cent., irredeemable by any payment exceeding five dollars a year (on account of both principal and interest), and to receive, as a compensation for the reduction of interest, fifteen dollars and eighty cents, payable in bonds.

Third. To have two-thirds funded at a yearly interest of six per cent., irredeemable by any payment exceeding four dollars and two-thirds per annum (for principal and interest), and to have, at the end of ten years, twenty-six dollars and eighty-eight cents funded on the same terms.

Fourth and lastly. The creditors were further to have an option of vesting their money in annuities on different plans.

It was also recommended to open a loan for ten millions of dollars, at five per cent. interest, payable one-half in specie, and the other half in the public debt, irredeemable by any payment exceeding six dollars per annum, principal and interest.

A Tontine lottery was also proposed.

While all assented to the proposal to make adequate provision for the foreign debt, as has been mentioned, the plan of funding the domestic debt gave rise to much opposition and debate.

The western lands thus offered to the public creditors were estimated at the price of twenty cents per acre. Their ordinary price had been one dollar an acre, payable in the public securities, when they sold at a very reduced price.

To provide an adequate revenue, the Secretary recommended specific duties on wines, distilled spirits, tea, and coffee, and an excise on all spirits distilled within the United States. He also proposed that the revenue from the post-office, then estimated at one hundred thousand dollars a year, should be set apart as a sinking fund, to an amount not exceeding one million of dollars a year, as he wished to see it incorporated as a maxim in the system of public credit of the United States, that the creation of a debt should always be accompanied with the means of its extinguishment.

The public securities, as the evidences of debt were called, had always been the subjects of speculation and traffic; but this had greatly increased from the time there had been a prospect of a government clothed with the powers of raising revenue; and a very large propor-



tion of the public debt, both that due from the General government, and that due from the several States, had probably passed into the hands of speculators and moneyed men before the meeting of the first Congress under the new Constitution. The report of the Secretary of the Treasury had been looked for with great solicitude by this class of men, and finding it favorable in all respects to the present holders of the public debt, they were loud and vehement in their encomiums on his ability as a financier, as well as on his sound and elevated principles of national faith. The public securities of every description immediately took a great rise in the market, in all parts of the country, and continued to rise while the subject was under discussion in Congress, until the law passed for funding the debt; when claims on the public treasury, which had sold as low as from ten to fifteen cents on the dollar, were, for a short time, above par.

The subject of this report having been called up on the twenty-eighth of January, it was, after some debate, postponed to the eighth of February, by which time it was expected the members from North Carolina would be in attendance.

There seemed to be no serious opposition to the Secretary's report, except on the discrimination between the original holders of the public securities and the present possessors, and on the assumption of the State debts, on both of which there was a lively feeling excited, in Congress and out of it.

On the eighth of February, the debate was opened by Mr. Smith, of South Carolina, who offered five resolutions proposing to fund the public debt in conformity with the Secretary's views.

Mr. Smith's resolutions were supported by Mr. Boudinot, of New Jersey, and enforced by a long and animated

speech, in which he gave a history of the public debt from 1776 to 1789, and of the various solemn pledges given by Congress to redeem it. He cited at length the eloquent appeal made in 1789 by that body to the American people; and concluded that they were bound, by every principle of honor, justice, and policy, to fund the debt.

Mr. Fitzsimmons followed on the same side; and he submitted another series of resolutions, more in detail, and in stricter conformity than Mr. Smith's with the Secretary's report.

In the desultory debate which followed, Mr. Jackson, of Georgia, was alone opposed to funding the debt, a practice which he maintained had always been injurious, and he was for further postponing the subject, though he disclaimed being opposed to the payment of the debt.

To the resolution, that provision be made for the payment of the domestic debt, Mr. Scott, of Pennsylvania, moved an amendment, by adding "as soon as the same is ascertained and duly liquidated." He distinguished between the domestic and the foreign debt. The latter they were bound to pay, according to contract; but as to the former, they were bound not only to provide the means of payment, but to decide on its justice. "One part of the community," he remarked, "applies to us to recover of the other what is due to it; the other says, the debt as claimed is too large, it is more than is justly due; you must try and determine between us, and say what part is just and what is not."

This amendment, which gave rise to a discussion that continued through this and the following day, was supported by the mover, by Messrs. Livermore, Jackson, and Tucker, and was opposed by Messrs. Boudinot, Ames, Sherman, Goodhue, Hartley, Stone, Sedgwick, and Gerry.

The amendment being lost, Mr. Burke moved an

amendment to the original resolution, that "a discrimination be made between the original holders and their assignees, and that a scale of depreciation be prepared accordingly." But he the next day disclaimed all intention of voting for it, and withdrew it.

Mr. Madison then rose, and after adverting to the silence he had hitherto maintained on the subject, that he might keep his mind open to the light shed on it by others, he presented his views in favor of discriminating between the original creditors and the present holders of alienated securities.

He differed from those who considered that the obligations of the United States were affected by the late change of government. The debt was due from the people; and the government, both then and now, is their agent, leaving their engagements unaltered. Of the four classes of public creditors, the claims of those who had never alienated, admitted of no dispute; and the pretensions of intermediate holders were also to be disregarded, as they would lead the Legislature into a labyrinth for which no clew could be found. The rival pretensions, then, of the other two classes—the original creditors who have parted with their securities, and the present holders of those securities—were alone to be considered.

The claims of the original creditors rest on justice, as the value acknowledged to be due to them has never been paid. They may appeal to the precedent in the compensation allowed to the army for depreciation; as well as to the public sympathy for what they have suffered.

The present holders also have their claims, which he did not wish to depreciate. As to meet both of these fully was beyond the resources of the country, and what no one expected, he proposed a composition; and the terms which he proposed were, that the present holders



should be paid the highest price that the securities have borne, by which no one could lose, and most would make a large profit; and that the residue be paid to the original holders, which, though it would not do this class complete justice, would come nearer to it than any other expedient proposed.

He urged that ordinary maxims did not strictly apply to the present case, since the fluctuations of stock in Europe, which had been referred to, never exceeded fifty to seventy per cent., and this evil did not justify the interposition of government; but that the same forbearance could not be expected where the fluctuation had been seven or eight hundred per cent. In support of these views, he referred to what Great Britain had done in the South Sea scheme; and concluded with moving an amendment for the discrimination\* he had recommended.

He was replied to by Messrs. Boudinot, Sedgwick, Lawrence, Smith of South Carolina, Ames, Benson, Hartley, Wadsworth, Goodhue, Gerry, and Livermore, who maintained, with great ability and zeal, that for the government, after having made the written evidences of this debt assignable, and promising to regard the assignee the same as the original creditor, to make the proposed discrimination, would not only violate the public faith, but be injurious to the public interests in all future engagements of the government: that the proposed plan was, moreover, on several accounts impracticable, especially from the fact that the books and papers of the government did not always show who was the real creditor: that the measure would also be unjust, not only from the general principles of law, but because, in the case of loan-office certificates, the creditor received the very paper he chose to purchase; and in the case of the sol-

diers, they had experienced something like justice by the bounty they had received.

It was urged that the original creditors had not asked for this relief, and that many of them would consider it dishonorable to receive it: that these new rights, if Mr. Madison's proposition prevailed, would present a further copious subject of speculation; and in thus aiming to benefit one set of creditors at the expense of another, a door would be opened to endless fraud, perjury, and litigation, in the investigation of questions of original ownership. It was denied that the interference with the South Sea contracts applied to the present case, when the government is asked to annul its own contracts, of which they said no example could be adduced.

Mr. Madison offered replies to most of these arguments, and as to the last, he cited two instances in the history of Great Britain — one in the case of the Canada bills issued by the French government, in the war of 1756, which were subsequently redeemed by the British government at a reduced rate; and the other was a case in which those who had claims on the civil list in 1713, having sold them at a loss, were permitted to redeem them on repayment of the purchase-money and interest: which were cases exactly similar to the present.

Mr. Madison was partially sustained by Mr. Stone, who took an able but temperate view of the subject. The discrimination was supported by Messrs. Jackson, White, Page, and Lenay. Mr. Madison's proposition was lost by a majority of thirty-six votes to thirteen.

During this discussion, the liveliest interest was felt and manifested by the class of speculators who had purchased the public securities, often as low as two shillings and sixpence in the pound, and in some cases yet lower, and who, after the report of the Secretary of the Trea-

surey, confidently looked forward to their rising from ten shillings, at which they were then selling, to par, or very near it. This party, considerable in point of numbers, and possessed of intelligence and influence, were indefatigable in their efforts, by means of the press, and by personally canvassing with the members, to gain a majority in Congress; and it was believed by many at the time, that, to ensure more votes, some of the members had been admitted as partners in purchases of public securities, and that the requisite funds had been advanced for them by large speculators. Even if these suspicions had little or no foundation, the vote of the House of Representatives was very far from being a just index of the public sentiment. A large part of the community, perhaps the largest, were in favor of some discrimination between the original creditors of the country, whose property or personal efforts had achieved the Revolution, and those who, taking advantage of the creditors' necessities, had bought up their claims at a most reduced price, and were now clamorous for a profit often from six to eight hundred per cent. Many are now living who recollect that, for several years after the question was decided, those who had thus enriched themselves were regarded with much of that odium which both our good and bad feelings concur to excite against extortioners of every description, grinding landlords, money-lenders, all those, in short, who exact what has the sanction of law but not of conscience.

It was not long afterwards that the yet more important question of assuming the State debts came under consideration, on which subject there was much more feeling than on the preceding question.

On the justice of paying these debts by the Federal government, it was properly urged that they had all



been incurred in consequence of the War of the Revolution, in which all had a common interest, and to which all ought to contribute, according to their ability and the benefit they had received. These, for want of a better rule, might be assumed to be according to the population of the States, estimated by the Federal ratio. The assumption was further recommended by other considerations. The General government having now the exclusive right to use the most productive sources of revenue, ought to relieve the States from a proportional part of their burdens: that the same sum must be paid by the people, whether the debts were assumed or not, but the money could be more easily and economically collected by one government, and one set of officers, than by two: that it was calculated to raise well-founded discontent and complaints with the State creditors when they found, as many of them would find, that their claims, having equal merit with those against the Federal government, were inadequately provided for by the States: and that the claims of all those whose property or personal effects had contributed to the Revolution, being equally meritorious, ought to meet with the same share of the public favor and bounty, or, rather, the same measure of justice. Much stress was also laid on the hardship of continuing to impose on the States that were most heavily in debt, as Massachusetts and South Carolina, the burden of providing for these debts, until a settlement took place, when those States had also large claims against the United States; and that when a settlement did take place, complete justice could then be done to such States as had advanced more than their just proportion.

But on the other side it was urged that, admitting the debts contracted by the several States to be debts of the whole Confederacy, yet inasmuch as some of the States

had already provided for the payment of their own debts, and had actually in part paid them off, to assume the debts of those States which had not diminished theirs would be highly unjust to the first mentioned class, and would subject them to more than their just contribution. By way of preventing such injustice, it was therefore proposed that the accounts of the States with the General government, and with one another, should be adjusted before the assumption took place.

It was accordingly proposed that the assumption of the State debts should be confined to such parts only as appeared to be a surplusage of any sum which a State had advanced beyond its just proportion of the expenses incurred in the defence of the common rights. This surplusage to be ascertained on a liquidation of the account. After a debate of some days, this amendment was rejected in committee by a vote of thirty-two to eighteen.

It was then proposed by Mr. Madison, as likely to lessen the injustice and the dissatisfaction of some of the States, to take the debts of the States at the conclusion of the war, as the amount to be assumed, and that "the amount of the debts actually paid by any State to its creditors since a given day should be credited and paid to such State, on the same terms as the debts to individuals."

Mr. Madison's amendment was rejected by twenty-eight votes to twenty-two.

The assumption was finally passed by a majority of five votes; but some other subjects having engaged the attention of Congress, the Secretary's report was not called up until the twenty-ninth of March, by which time the five members from North Carolina had attended. It was then moved to recommit the clause which provided

for the assumption of the State debts; and this motion was carried by twenty-nine votes to twenty-seven.

The members from North Carolina were vehemently opposed to the assumption, as being very injurious to that State; and after a spirited debate until the twelfth of April, the question of assumption was negatived by thirty-one votes to twenty-nine.

Notwithstanding this vote, the proposition to assume was repeatedly renewed afterwards without success, until the twenty-first of April, when Mr. Sherman, of Connecticut, proposed specific assumptions in behalf of each State,<sup>1</sup> to the amount of nineteen millions three hundred thousand dollars; which, however, was rejected.

Mr. Madison opposed the assumption in an elaborate speech,<sup>2</sup> in which he spoke of the injustice which would be done to Virginia by the assumption, though her contributions to the common cause had been, at least, equal to those of any other State.

The next day, the twenty-third of April, Mr. Ames moved that the Secretary of War lay before the House a statement of the troops and stores furnished by the several States during the war; which was carried. The report was made on the eleventh of May,<sup>3</sup> which seemed to repel the proposition, that the advances of Virginia were superior to those of Massachusetts.

Three days later, the House adopted the principal provisions of Mr. Hamilton's report, except as to the assumption of the State debts.

On the twenty-fourth of May, the question of assumption was again brought forward by Mr. Gerry, who proposed assumptions of specific sums to each of the States, somewhat similar to the proposition made by Mr. Sherman.

<sup>1</sup> II. Gales & Seaton's Debates, page 1586.

<sup>2</sup> Ibid. page 1587.

<sup>3</sup> Ibid. page 1619.



This also gave rise to a warm debate, in which Messrs. Boudinot and Ames took the lead in replying to Mr. Madison's speech, and endeavored to show that the strongest considerations of policy, as well as of justice, were in favor of the assumption.

Some other amendments were made, particularly one for funding the outstanding bills of credit at one hundred for one; and on the second of June the bill passed the House, and was sent to the Senate.

The very lively interest which this question excited arose in part from considerations that were independent of its real merits. These were:

First. The very large amount of debts due from the States of Massachusetts and South Carolina, each exceeding five millions of dollars, which they would find it difficult, if not impracticable, to provide for, when they were deprived of so important a source of revenue as the impost.

Secondly. Because the State debts had either already become a subject of speculation, or would become so, if the debts were assumed; and thus all those who wished to realize the profits of the purchases they made, or who hoped to realize them from such purchases as they should make, became active and zealous advocates for the assumption.

Thirdly. Those who expected that every public creditor of a funded debt would be a firm supporter of the new government, and who honestly believed that such support was needed, until it was strengthened by time and habit, were also friends of the assumption.

On the other hand, the assumption was more strenuously opposed by others on both of these last accounts. They not only did not wish to see the class of moneyed men, and of crafty speculators, still further enriched at

the expense of those whose property or services had contributed to give independence and liberty to their country ; but they considered that the power and influence of the General government were already too great for the rights of the States ; and that the assumption would hasten that process of consolidation of the States which they thought they saw in prospect, and which would destroy the just equilibrium between the Confederacy and the States.

While the bill making provision for the public debts was before the Senate, and its fate was in suspense, this troublesome question was adjusted by one of those pieces of out-door management which often, by an unseen agency, control legislation ; and which, whether the compromise when abstractedly considered, advances the public benefit or not, have at least the merit of putting an end to the discord of conflicting parties.

From the time that Congress had decided to remove its place of meeting from Philadelphia, in consequence of the attempt made by some of the Pennsylvania line to overawe Congress, there had been a great contest among the States, each striving to secure the seat of government within its own territory, or as near to it as possible. By a combination of the Northern States, a majority had at one time decided on Germantown as the permanent seat of government : then, in consequence of the offer of Virginia and Maryland to make a cession of ten miles square to the Federal government, a majority seemed to be in favor of some place on the Potomac. After Congress decided on meeting in New York, Pennsylvania, lest it should be permanently fixed in that city, united with the Southern States to have the seat of government further south ; and Baltimore was selected as the temporary place of meeting. It was

therefore suggested that, in consideration of fixing it permanently on the Potomac, which Virginia and Maryland anxiously desired, a vote or two in favor of assumption might be obtained from those States, by which changes there would be a majority in favor of that measure.<sup>1</sup>

The arrangement accordingly took place, and it was agreed that Congress, after meeting for two years at Philadelphia, should then meet at some point on the Potomac, to be selected by the President, which place should then be the permanent seat of government. Two of the Virginia delegation, who had hitherto been opposed to the assumption, then voted in favor of it, by which it was finally carried.

In accordance with this arrangement, the bill for fixing the seat of government originated in the Senate, where it was passed on the first of July; and the bill making provision for the public debt, sent from the House, was amended in the Senate so as to assume the debts of the States to the amount of twenty-one millions of dollars. Some other amendments were proposed, and among them one to fund the bills of credit at forty for one, which being rejected, it was then proposed to fund them at seventy-five for one, which was also rejected. Some of the amendments, modifying the terms of the loan, finally prevailed on a conference between the two Houses.

Now that the feelings which this question once excited are passed away, when we have the means of appreciating the merit of the arguments urged both by its supporters

<sup>1</sup> This compromise was brought about by the agency of Alexander Hamilton, who appealed to the patriotism of Thomas Jefferson, in consequence of which his influence was successfully exerted on two of the members of Congress from Virginia, Messrs. White and Blair.

See Mr. Jefferson's account of this compromise. — Jefferson's Correspondence.



and opponents which they did not possess, we may pronounce on it,

That, as a measure of justice, the claims of the State creditors were scarcely distinguishable from those of the United States, and it would be right to give to their claims, so long postponed, the addition of value they could derive from being funded, but that this purpose of thus benefiting a meritorious class was in a great degree defeated by the speculations made on them after the Secretary's report, and during the debate.

That, as a measure affording temporary relief to Massachusetts and South Carolina, the benefit to those States greatly outweighed any inconvenience which other States might have suffered from it.

As a measure of policy, in giving desirable support to the Federal government, or weakening the rights and independence of those States, its influence seems to have been egregiously overrated by both parties. If it made of every new fund-holder a friend to the General government, it probably also made many more enemies by preventing further examples of the cunning and greedy speculator running off with the spoils of the honest and unwary creditor, and by alarming the jealous fears of consolidation, and monarchy, and aristocracy, which already filled the minds of many with vain and imaginary terrors. Arguments quite as plausible present themselves, that every addition to the public debt weakened the government, as that they gave it strength; and the effect, either way, was probably insignificant. But as a financial measure it must be unhesitatingly condemned.

Since, in funding the public debt, it was proposed to pay the creditors less than they were fairly entitled to, or a lower interest, on the ground of the inability of the govern-

ment to do full justice, it was obviously desirable to assume no more than was necessary, since every addition to the debt, by pressing more heavily on the public resources, would lessen the value of the rest. When the debts of the States were small, it was easy for the States to discharge them from their own revenues; and accordingly States so circumstanced did not wish for the assumption. But it might happen, and was even probable, that the States which had the largest debts were also creditors of the United States to the largest amount; in which case, their debt would be so reduced as to be not beyond their resources. This accordingly proved to be the fact. On an adjustment of the accounts of the States, it appeared that if the assumption had been deferred until that settlement had taken place, a large part of what had been thus assumed had been entirely unnecessary. A settlement was made by Commissioners in 1793, when it appeared that had the United States postponed the assumption until such settlement, they would have attained the same result by assuming eleven millions of dollars, as was attained by assuming twenty-three millions.<sup>1</sup>

It is true that the same sum would, in either case, have been drawn from the people, but as the Government found great practical difficulty in providing for its debt and its current expenses, and it could not do so without the aid of an excise which caused an insurrection, and a great increase of expenses, it would have been better that these eleven million of dollars should have been paid by the States, which had shown, both before and after the assumption, that they could easily pay their quotas.

Thus, to afford temporary relief to two States, and to benefit that number of State creditors whose debts were

<sup>1</sup> Gallatin on Finances, page 107.

unprovided for by the respective States, and had not been purchased up by speculators, injustice was done to many of the States by making them contribute more than their just proportions of the public debt. The burdens of the General government, already weighty, were greatly increased; an odious excise had been created; a popular insurrection excited; a heavy expense incurred to put it down; and jealousies and suspicions against the motives of those who administered the government were increased, and parties were thus created, and eventually acquired a bitterness which they probably would not have otherwise known.

To the debt of twenty-one and a half millions of dollars, which was assumed, were added the balances due to creditor States, amounting to nearly two and a half millions, making the whole amount assumed nearly twenty-two and a half millions of dollars.

Having followed this subject to its termination, which merited the more attention on account of the very lively interest it excited at the time, and because it contributed, more than any other question, to divide the country into two angry and hostile parties, let us now go back to the other principal measures which engaged the deliberations of Congress at this session.

The enumeration of the inhabitants, which was required by the Constitution to be periodically taken to determine the representation of the different States, was provided for at this session.

In February, a subject was brought before Congress, which, from that time to this, has never failed to excite the liveliest sensation in some of the States. This was the subject of negro slavery, which the Quakers brought to the notice of Congress in a petition to take measures for abolishing the slave-trade. The question of referring



the memorial to a committee gave rise to a debate, in which the members from South Carolina and Georgia were opposed to a reference. The petition having been laid on the table, a memorial, on the following day — the twelfth of February — for the abolition of slavery, from a society in Pennsylvania, of which Benjamin Franklin was President, was presented, asking the interposition of Congress for the purpose of putting an end to all traffic in the persons of their fellow-men. The question of referring this memorial to a committee was also debated with the same warmth as that from the Quakers; and on the question of the reference of both petitions, it was carried by forty-three votes to eleven — one member from New York, Sylvester, two members from Virginia, Bland and Coles, and one from Maryland, Stone, voting with all the members from South Carolina and Georgia.

The committee to whom the subject was referred made a report on the eighth of March, in which they declared that Congress had no power to prohibit the importation of slaves into any State permitting it, before 1808; nor could they interfere in the emancipation of any slaves, whether imported, or born in the United States; nor had they any authority to interfere in the internal regulations of the States concerning their slaves, or respecting the seizure, transportation, or sale of free negroes; and that they had confidence in the wisdom and humanity of the Legislature of those States. They at the same time declared that they might lay a tax on imported slaves within the limits prescribed by the Constitution; might interdict the slave-trade carried on by citizens of the United States for foreigners, and regulate that carried on for the United States, so far as to provide for the humane treatment of the slaves on their passages either to the United States or to foreign ports: that they might

prohibit foreigners from fitting out vessels in the United States for the slave-trade. They add, in conclusion, that they will, in all cases, use the authority of Congress for the humane objects of the memorialists.

The report was unsatisfactory to the members of South Carolina, and a motion was made to recommit it, which was negatived. The Quakers, as before, were assailed with bitterness and defended with spirit.

When the discussion was renewed, on the sixteenth of March, Mr. Tucker, after insisting on the injustice and unconstitutionality of the interposition of Congress on the subject, proposed to substitute for the whole report a resolution declaring such interposition unconstitutional, and tending to injure some of the States; when it was decided that the amendment was not in order.

The House then entered on the discussion of the report, taking each resolution in succession, in which the former heat and acrimony were renewed. The debate continued for several days, and it was at length agreed to amend the report of the committee, and to insert the amended report on the journal; which motion was carried by twenty-nine votes to twenty-five.

The amended report did not differ from the report first made, except in using language less likely to give offence to the Southern States. It was in these words:

“First. The migration or importation of such persons as any of the States now existing shall think proper to admit, cannot be prohibited by Congress, prior to the year 1808.

“Second. Congress has no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States, it remaining with the several States alone to provide any regulations therein which humanity and true policy may require.

“Third. Congress has authority to restrain the citizens of the United States from carrying on the African trade for the purpose of supplying foreigners with slaves, and of providing, by proper regulations, for the humane treatment, during their passage, of slaves imported by the said citizens into the States admitting such importation.”<sup>1</sup>

In this early discussion of a subject which has since been so often renewed, and which has more than once seemed, from the irreconcilable contrariety of sentiment with which it is viewed by the two great divisions of the States, to endanger their political union, both parties were led, in the ardor of their feelings, to assume ground that would be now regarded by both as untenable. Thus the members from the only two States which then imported slaves, spoke of the memorial as unconstitutional; though, in asking Congress to go to the verge of their power to suppress the slave-trade, the memorialists recognise and respect the limits which the Constitution had set to that power: and those members reviled the Quakers for seeking to restrain a traffic which every State now condemns, and would be certain to interdict, if the Constitution had not made their interposition unnecessary.

On the other hand, Mr. Scott, of Pennsylvania, in his zeal to defend the memorialists, and to show his opposition to slavery, presented an instance as striking of the ascendancy of feeling over reason, and professed himself inclined to overstep the restrictions imposed by the Constitution.<sup>2</sup> “Perhaps,” he says, “in our legislative capacity, we can go no further than to impose a duty of ten dollars; but I do not know how far I might go, if I was one of the Judges of the United States, and those

<sup>1</sup> II. Gales & Seaton's Debates, page 1524.

<sup>2</sup> Ibid. page 1242.



people were to come before me and claim their emancipation; but I am sure I would go as far as I could:" and in a subsequent speech he seemed to regard the provision of the Constitution as controlled by the great law of necessity, and said: "I believe that if Congress should be, at any time, of opinion that a state of slavery attached to a person, is a quality altogether inadmissible into America, they would not be bound by the clause above cited (from the Constitution) from prohibiting that hateful quality." Which latitudinous and absurd view of the Constitution he enforced and illustrated at some length.

Neither party on this delicate question would venture to push their doctrines to such extremes at the present day, though it must be confessed that both of them have occasionally made nearer approaches towards such ultra views than either prudence or sound logic can justify.

This agitating discussion took place while the subject of providing for the public debt was under consideration, and since some of the States which were divided on one question were agreed on another, the local feelings and prejudices were probably thereby somewhat soothed. In this way, Messrs. Ames, Grout, and Thatcher, of Massachusetts, Trumbull of Connecticut, and Benson and Van Renssalaer of New York, might have been induced to vote with South Carolina, which State had voted with them for the assumption. On the question of recording the report of the committee, the ten members of Virginia were equally divided.

In May, Rhode Island adopted and ratified the Constitution of the United States, of which the President informed the two Houses in June that he had received official information; and the requisite alterations in the census law, and some other statutes, were accordingly made.

At this session the State of North Carolina ceded the western portion of the country within the chartered limits of that State, which portion now constitutes the State of Tennessee. The inhabitants of that region had, for some time, aimed to erect themselves into a separate State, which they termed Franklin (a name then occasionally changed to Frankland); but their efforts were resisted by North Carolina, and with success. That State, however, foreseeing that if the western people persevered in their purpose, as they were likely to do, they would ultimately prevail, made a virtue of necessity, and transferred her rights to the United States, by which transfer the purposes of those who aimed to form themselves into a separate State would be hastened and facilitated.

A petition having been presented from Portsmouth, in New Hampshire, asking an increase of duties on foreign shipping, the same was referred to a select committee, who, in their report, recommended a duty of one dollar per ton on foreign-built vessels.

This report indicated a determination to take more energetic measures to afford to the shipping and foreign commerce of the United States that protection which had been a principal object in forming the Federal Constitution. From the discussion of the subject, which continued, with some intermissions, from the tenth of May to the thirtieth of June, we see that the difficulties which the new government encountered did not wholly proceed from the jealous power of foreign competitors, but arose, in part, from the conflicting interests among the States.

Mr. Smith, of South Carolina, moved to strike out the first clause of the report (which proposed an increase of the tonnage duty,) as highly injurious to the agricultural interests of the United States. He urged that the measure would be injurious to some of the States, and bene-

ficial to others, by tending to increase their freights: that the ship-building interest already enjoyed great natural advantages, and required no special encouragement.

Mr. Sherman was in favor of the duty, as encouraging the carrying trade and the ship-building of the United States, insisting that if it produced some partial inconvenience at present, it would ultimately benefit the whole country.

Mr. Goodhue, on the same side, made remarks on the value of the carrying trade, which had declined in consequence of the restrictions of foreign nations. He was willing to impose equal restrictions on them, but to go no further.

Mr. Williamson did not think one part of the community should be burthened for the advantage of another. But he was friendly to the policy of American ships carrying American produce to market.

Mr. Jackson was opposed to the report, whether its object was revenue, retaliation, or an encouragement to American shipping. He said that a tonnage duty of fifty cents was deemed sufficient at the preceding session; now one of a dollar is asked, and next year two dollars a ton will probably be insisted on. He asked for proofs that American shipping required further encouragement, before we gave it. He said the carrying trade was of little importance to the United States, or to any country not having a navy. He insisted that the shipping interest of the United States was sufficiently encouraged, and that a further encouragement would be burthensome to the Southern States.

Mr. Fitzsimmons would merely state facts, without giving an opinion at this time. He said that the operation of the tonnage duty laid at the last session had proved beneficial: that the Southern States have the ports of



the world now open to them, while the Eastern States are excluded from many ports to which they formerly had access : that the present low price of rice was unconnected with the subject. He was not in favor of a duty which would prevent foreign ships from coming to our ports ; but, at the same time, he did not wish to see the carrying trade monopolized by foreigners.

Mr. Livermore contrasted the present with the former prosperous condition of the merchants of Portsmouth.

Mr. Bloodworth thought the decision of the question was now premature.

Mr. White was strongly opposed to the additional duty as injurious to agriculture ; and Mr. Page, his colleague, was as decidedly in favor of it.

On the following day, motions first to strike out the duty, and to reduce it to seventy-five cents, were negatived ; when the Committee rose, and reported progress.

Mr. Madison spoke at great length in favor of going a step further, and of discriminating between the vessels of nations which were and which were not in commercial treaty with the United States. He doubted whether the measure proposed by the committee would have the intended effect, to which he professed himself friendly : it might induce the nations of Europe to make common cause against the United States. He questioned the policy of laying the additional duty on the shipping of France. He dwelt on the advantages which the trade with that country promised, and thought it would be three times as advantageous to the United States as their trade with any other nation. He spoke of the advantage of a consuming over a manufacturing country, and that the United States could do without Great Britain better than she could do without them. He concluded

with moving to subject vessels of nations not in treaty with the United States to a higher duty.<sup>1</sup>

Mr. Fitzsimmons said he had been in favor of the discrimination proposed by Mr. Madison, but now doubted its propriety. With the small amount of French shipping, the exemption from the additional duty would be no object with France; but with the large surplus owned by Great Britain, she cannot employ them so advantageously as in the American trade. He pointed out the great benefit she derives from the United States. Our advantages were correspondingly great, and he should be sorry to risk them by the proposed enhancement of the tonnage duty.

Mr. Ames was also opposed to the motion. He said France could not be much benefited by the discrimination; and that American vessels were admitted with almost as much facility into the British as into the French islands. He had hoped that this question, after having been decided at the last session, would not be renewed.

The motion, however, prevailed by thirty-two votes against nineteen; and the resolution, as amended, was as follows:

That the tonnage on all foreign-built bottoms belonging to nations not in commercial treaty with the United States be raised to the sum of one dollar per ton, from and after the first of January next.

On the following day, Mr. Madison, encouraged by the success of his previous motion, moved an addition to the resolution agreed to, that after a given day there should be an increased tonnage duty on vessels of nations not in treaty with the United States, and on a subsequent given day a further increase of duty; and that

<sup>1</sup> II. Gales & Seaton's Debates, page 1626.

such vessels should be prohibited from exporting from the United States "any unmanufactured article, the growth or produce thereof." He supported his motion by various arguments and illustrations.

The motion was opposed by Messrs. Fitzsimmons, Lawrence, Sedgwick, and Smith of South Carolina, as hazardous and inexpedient.

Mr. Madison replied to their arguments at great length. He defended the measure, as one of retaliation against Great Britain. He said the principle on which she regulated her West India trade was a departure from her Navigation Act, which allowed other vessels to carry their own produce in their own ships into her ports. He endeavored to show that Great Britain would not throw away or put in jeopardy so extensive and valuable a trade as that she had with her West India colonies, and also with the trade in American tobacco. He laid a stress on the dependence of the West Indies upon this country for bread: said she would not seek to hasten the progress of manufactures in the United States; and the West Indies could not dispense with lumber, nor with the sale of their rum. They could neither prosper nor subsist without the trade of the United States. As Great Britain now enjoyed the full benefit of the trade to the United States, their Executive had nothing to offer or withdraw. By passing the act proposed, he may say, "if you do not give the United States proper privileges, those given to you shall be discontinued."<sup>1</sup>

Mr. Fitzsimmons again regarded the measure as a bold one, and he believed that Great Britain would, at all hazards, maintain her system of trade with the West Indies. He was friendly to the encouragement

<sup>1</sup> II. Gales & Seaton's Debates, page 1624.



of American shipping, but thought we had gone far enough.

Mr. Williamson stated that Great Britain had been disposed, at the time of the treaty of peace, to enter into a commercial treaty, but finding our ports were open to her ships, had declined it.

Mr. Lawrence was in favor of postponing a decision, and urged considerations both for and against the measure.

Mr. Jackson was opposed to the bill, but Mr. Page was decidedly in favor of it.

The Committee rose and reported in favor of the additional duties on foreign vessels, and of prohibiting them from exporting raw produce from the United States, with a proviso, however, which excepted from the operation of the act the vessels of any nation which permitted the importation of fish, salted provisions, grain, and lumber in vessels of the United States. A bill, in accordance with the resolution of the Committee, was ordered to be brought in.

So far, a majority of the House had been evidently in favor of Mr. Madison's policy of retaliating the commercial restrictions of Great Britain. But in the course of a few weeks a great change seems to have taken place. In the interval, Congress passed a general tonnage act, substantially the same as the one passed at the preceding session; which act was apparently considered to afford as great encouragement to American shipping as it would be then prudent to give. It was clear, from the debates, that a variety of interests were enlisted against the proposed retaliation. Its opponents urged that as the shipping of the United States was not then adequate to the wants of the country, the exclusion of British vessels would be highly injurious to the Southern exporter; and

that it would enhance the price of imports. Even the ship-owners of the Northern and Middle States did not favor the policy, from a dread, no doubt, of counteracting measures on the part of Great Britain.

On the twenty-ninth of June, therefore, the retaliatory bill was negatived in the Committee of the Whole, when a substitute was adopted, on the motion of Mr. Fitzsimmons, that a specific tonnage duty should be laid on all vessels not built or registered in the United States; and a duty of the like character on foreign vessels coming to the United States from ports from which American ships were excluded.<sup>1</sup>

The next day, however, Mr. Madison made another attempt to procure the adoption of his retaliatory policy, by proposing, first, that in all cases in which vessels of the United States are prohibited from bringing any article from a foreign country into the United States, the vessels of such foreign country shall be subjected to a like prohibition; and, secondly, where the vessels of the United States are prohibited from carrying to a foreign country articles not the product of this country, the vessels of such foreign country shall also be prohibited from bringing into these States any articles not the product of such foreign country. But from the change of sentiment which had taken place, neither these resolutions of Mr. Madison, nor the milder measures proposed by Mr. Fitzsimmons, were acted on during the remainder of the session. The subject was not, indeed, renewed until the year 1794, when it was brought forward by Mr. Madison. It is but justice to this statesman to remark, that no one could be more thoroughly convinced of the benefits of free trade than he; and he thought the most effectual mode of promoting its liberal

<sup>1</sup> II. Gales & Seaton's Debates, page 1712.

principles was to make Great Britain feel the inconvenience of restriction. Had he received sufficient support at home, it is impossible that the self-harming policy should have been continued, with little abatement, by either nation for more than forty years.

As it was the obvious policy of the United States to encourage immigration, while they had so thin a population on their extensive territory, Congress availed themselves of their constitutional power on the subject of naturalization to extend the rights of citizenship to all foreigners on the very easy terms of two years' residence within the United States, on proof of good character, and on taking an oath to support the Federal Constitution; which rights were also extended to the applicant's children under twenty-one years of age.

It was with the like considerations that the furniture, books, and tools of immigrants were exempted from the payment of duties.

A portion of the members were for allowing some of the privileges of a citizen, as to hold real estate, on a residence of one year, or even less, and thus to extend those privileges, according to different degrees of residence; but a simpler and more uniform course was finally deemed preferable.

A law was also passed for regulating the intercourse with the Indians, by which no one was allowed to trade with them without a license to be issued by a Superintendent appointed by the President; and the person so licensed was required to give bond for the faithful performance of the conditions prescribed for such trade. Persons trading without such license forfeited their merchandize. All sales of lands by Indians, except by public treaty, were declared void; and all crimes committed



against Indians were equally punishable as if committed within the jurisdiction of the United States.

In the act for punishing crimes in the United States, it was provided that there should be no prosecution for any offence committed more than three years previous, nor for any inferior offence, committed more than two years before; it seeming to them that in a few rare cases in which new evidence sufficient to convict might be found, such offences, after those periods of time, had better go unpunished, than that the accused should be exposed to the danger of malice, perjury, and the uncertainty that time ever casts upon facts. All the reasons in favor of an act of limitations in civil cases are applicable to criminal cases.

During this session Dr. Franklin died at the advanced age of eighty-four. His death was brought to the notice of the House of Representatives by Mr. Madison, who paid a high and just tribute to his fame abroad as well as at home, and to his long course of patriotic services. He concluded with moving a resolution which, after a brief, but high eulogy on Franklin, proposed that the House wear the customary badge of mourning for one month, which was adopted.

The National Assembly of France, on the eleventh of June, paid to the memory of the patriot and philosopher a similar honor, by wearing mourning for three days: and, on the twenty-eighth of June, it addressed a letter to the President of the United States, in which, after adverting to their decree of the eleventh, they pronounced a lofty panegyric on Franklin's moral and intellectual character.<sup>1</sup>

A joint resolution of the two Houses, prepared in the

<sup>1</sup> II. Gales & Seaton's Debates, page 2171.

Senate, expressed the sensibility of Congress to the tribute paid to Franklin's memory by the National Assembly.<sup>1</sup>

In a government so newly organized, the number of public laws enacted at this session was necessarily large. The most important of them were :

An act for the punishment of crimes against the United States ; as treason, piracy, murder on the high seas, or offences committed in places in which the United States have exclusive jurisdiction.

An act for regulating the military establishment of the United States. This amounted only to one thousand two hundred and sixteen men, enlisted for three years.

An act for the collection of duties on imports. It created fifty-seven collection districts, of which no less than twenty were in Massachusetts. It regulated the impost, and the duties of the several officers employed in collecting it.

An act providing for intercourse with foreign nations. The sum of forty thousand dollars is appropriated ; and the salary of a Minister Plenipotentiary is nine thousand dollars.

An act for the settlement of the accounts between the United States and the individual States. For this purpose three Commissioners are appointed, whose duties are prescribed.

An act providing for the reduction of the public debt. This authorises certain officers<sup>2</sup> of the government to purchase, with the surplus money in the treasury, the debt

<sup>1</sup> II. Gales & Seaton's Debates, page 2021.

<sup>2</sup> The President of the Senate, the Chief Justice, Secretary of State, Secretary of the Treasury, and Attorney-General. This was the origin of the sinking fund, of which those officers were the permanent Commissioners.

of the United States at its market price, if that did not exceed the par value.

An act for establishing the temporary and permanent seat of government. By this, Congress was to meet at Philadelphia until the year 1800, after which the permanent seat of government was to be on the Potomac.

An act providing further revenue, by which an excise was laid on distilled spirits, and an addition made both to the specific and the ad valorem duties.

An act allowing pensions to disabled soldiers and seamen.

To this list we may add the following acts as meriting special notice :

An act to regulate the trade with the Indians ; to favor the progress of the useful arts ; to secure the copyright to authors ; to authenticate records and judicial proceedings from one State to another.

After a laborious session of seven months, Congress adjourned on the seventh of August, to meet again on the seventh of December.

The line of division between the two parties of Federalists and anti-Federalists had become marked during this long and busy session ; and no one question had contributed so much to that result as the funding of the public debt, and the assumption of the State debts. Those measures had added strength to the jealousy entertained of the power of the Federal government, and the manifestation of this jealousy had augmented the zeal to support the government, and excited a further dread of the unfriendly feelings entertained towards it.

At the succeeding session of the Virginia Legislature, in defence of the rights of the States, it was fain to express its dissatisfaction with the assumption of the State debts as unwarranted by the Constitution, which



limited the power of the Federal government to pay the debts of the States in their collective capacity. It also condemned the irredeemable quality of a part of the public debt, as contrary to sound policy, and as indicating a disposition to perpetuate the debt by way of increasing the influence of the Federal government. It, lastly, condemned the practice of the Senate in sitting with closed doors, which practice had been for some time an object of popular jealousy, and a theme of newspaper censure. The assumption was also condemned by the Legislatures of Pennsylvania, Maryland, and North Carolina. These sentiments extensively prevailed in the last-mentioned State, and were adopted by individuals in all the States. A beginning, in fact, was now formed of a regular opposition to the views and objects of the party of which Mr. Adams, the Vice-President, and Mr. Hamilton were regarded as the head; for though their plans often had the support of General Washington, his attachment to republican government was not then doubted, or if it was by a very small number of minds prone to suspicion, the attachment of the people to him, and their confidence in his integrity were too great to be shaken; and no one could then venture to assail him, without being certain of injuring himself in the public estimation.

The next session of Congress was held at Philadelphia. In the President's opening speech, delivered on the eighth of December, he congratulated them on the continuance of the public prosperity, and of the progress of public credit, manifested by the rise in the price of the American stocks;<sup>1</sup> and that the product of the revenue had exceeded expectations.

He adverted to the hostile incursions of the Indians on the north-west, which had induced him to order out

<sup>1</sup> The price had now risen to seventy-five cents in the dollar.

both regulars and militia for the defence of that frontier. Encouragement to navigation was recommended; the appointment of consuls abroad; the militia; a mint; weights and measures; the post-office and post-roads, were also brought to their notice.

He hopes not only that adequate provision will be made for paying the interest of the public debt, but also, as the resources of the country permit, for discharging the principal itself; and the western lands are spoken of as in all respects a desirable and valuable resource for that object.

The answer of the two Houses indicated undiminished harmony between them and the President, and that the opposition, which had been so plainly manifested, by minorities in each House, to Mr. Hamilton and his supporters, had not yet extended to Washington himself: yet in the debate which preceded the response of the House to the President's speech, there was evidence of some individual exceptions to the general rule.

In a treaty which had been recently concluded by the United States with the Creek Indians within the chartered limits of Georgia, an extensive territory, in which that State had claimed the right of soil, but which had been generally admitted to be in the Indians, was ceded to the United States. With this treaty Georgia had been much dissatisfied, and Mr. Jackson, from that State, with his wonted impetuosity, condemned the treaty for ceding away more than three millions of acres of land belonging to Georgia, and also for its containing secret articles, which he denounced as incompatible with the Constitution.

There was also some difference of opinion manifested as to the encouragement which should be given to navigation.

Notwithstanding these animadversions, the answer to the speech proposed by the Committee was unanimously adopted.

Two reports were received from the Secretary of the Treasury : one on the subject of the public debt, and the other recommending the establishment of a national bank.

The first subject, however, which engaged the deliberations of the House was the establishment of a system of militia, which then, as at all subsequent periods, proved one of the most impracticable subjects. After much discussion of the details of the bill reported by a committee, it was recommitted, and an amendatory bill proposed, which was not finally acted on.

The next subject of their deliberations was the public lands. In the bill for the establishment of a land office, the price of the lands was inconsiderately limited to the low price of thirty cents an acre, though Mr. Sherman proposed to substitute fifty cents an acre, remarking that they would probably soon be worth that sum. The bill which was passed by the House, was postponed by the Senate.

Early in January, the subject of a duty or excise on spirits distilled in the United States, which the Secretary of the Treasury had recommended, was taken up, and it having been referred to a Committee of the Whole, it gave rise to a long and warm discussion.

This measure was opposed by Mr. Jackson, of Georgia, as bearing oppressively on the Southern States, which, having neither breweries nor orchards, were great consumers of spirituous liquors. Excises were denounced as a species of tax peculiarly odious in England. They were also said to be unnecessary, as the additional revenue might not be required.



Similar arguments were urged by Mr. Parker, of Virginia.

Mr. Stone had no objection to additional revenue, but was averse to an excise.

Mr. Madison considered that, of all excises, that on ardent spirits was the least exceptionable. He said he should prefer direct taxation, were it not that this was against the public sentiment, and the opinion of a majority of the House.

Mr. Lawrence, of New York, was in favor of the bill.

Mr. Steele, of North Carolina, was opposed to an excise. He stated that the Assembly of North Carolina had refused to take an oath to support the Federal Constitution, and also to admit prisoners under the laws of the United States into the jails of their State—all indicating hostility to the General government; and he urged that nothing should be done to increase the local discontent. He preferred a direct, or even a poll tax; and urged that, under an excise, the people of his State would pay ten times as much as the people of Connecticut.

Mr. Livermore was in favor of the bill, as this tax was every way preferable to direct taxation.

Mr. Bloodworth, of North Carolina, was opposed to the bill.

Mr. Sedgwick spoke in favor of it; and of the four ordinary modes of taxation, he pronounced this to be the least objectionable.

Mr. Smith, of South Carolina, defended the bill, and insisted on the necessity of obtaining further revenue.

Mr. Giles, of Virginia, agreed that a further revenue was required, and he thought that the objections made to the excise were for want of information. He believed the people would acquiesce in it.

The necessity for the revenue which the bill proposed to raise, occasioned further debate, when, as before, a large majority appeared to be in favor of the measure. The details of the system also gave rise to much discussion, during which the ayes and noes were repeatedly called. The bill was passed, on the twenty-seventh of January, by thirty-five votes to twenty-one.

On the first of February, the House entered on the discussion of a bill sent from the Senate for the establishment of a Bank of the United States, agreeably to the recommendation from the Secretary of the Treasury, and in conformity with his plan.

Mr. Jackson was opposed to the bill, both as to its expediency and constitutionality. He thought it calculated to benefit the mercantile interest exclusively. It was a monopoly; it infringed the charter of the Bank of North America; and he referred to the essays of "The Federalist," to show that the power assumed by the bill was unconstitutional.

The first question was on recommitting the bill.

Mr. Lawrence maintained the constitutionality from the power of borrowing money, from which he inferred the right to create a capital: that the Bank of North America was established by the late Confederation, and no one would contend that this government had less power than that: that it would benefit both the centre and extremity of the Union; that the commercial, mechanical, and agricultural classes are so combined, that one cannot be benefited without benefiting the other.

Mr. Tucker objected to the loan of two millions of dollars to the bank, as it diverted that much from the object for which it was borrowed. He objected also to the bank's power of lending to the Government.

Messrs. Williamson, Madison, Gates, and Stone, were

in favor of recommitment; and Messrs. Sherman, Gerry, Ames, Vining, and Boudinot were opposed to it.

There were twenty-three votes in favor of recommitting, and thirty-four against. It was a geographical division; all north of Maryland, except Grant of Massachusetts and Brown of Rhode Island, voting one way, and the Southern States the other.

The bill was elaborately assailed by Messrs. Madison and Giles, of Virginia, and Stone, of Maryland; and as elaborately defended by Messrs. Ames and Sedgwick, of Massachusetts; Lawrence, of New York; Vining, of Delaware; and Smith, of South Carolina.

The opposers of the bank made some objections to the policy of the measure, and the terms of their charter; but their chief ground of attack was that Congress had no power, under the Constitution, to establish a bank.

Examining in succession all the grants of power under which the right to establish a bank could be claimed, they urged:

That it could not be drawn from the power to lay and collect taxes to pay public debts, and to provide for the common defence and welfare, as it laid no tax, and made no provision for the general welfare.

That the power as to the terms "common defence and general welfare," was limited to laying taxes for these objects; and that the general purposes themselves were limited by the particular enumeration of acts which followed. Any other construction would give to Congress unlimited powers.

That it could not be drawn from the power to borrow money, as it borrows none. To suppose that the power to borrow money involves the power of creating the ability to lend, is as forced a construction as to say that



it involves the power of compelling the will, where there may be the ability to lend.

That it cannot be drawn from the power to pass all laws "necessary and proper" to execute the specified power. It is not enough that the means used should be conducive to the execution of an admitted power; but they must also be necessary, or be directly incidental means to the end proposed. Any other construction would give to Congress powers without limit, which was variously illustrated. By such a course of implication, to borrow money is made the end, and the accommodation of capitals is implied as the means. The accumulation of capitals is then the end, and a bank is implied as the means. The Bank is thus the end, and a charter of incorporation and a monopoly are the means.

Nor could it be drawn from the power to regulate commerce, as the bill proposes no such regulation; and even though it did, yet, as it would give a preference to Philadelphia, the seat of the bank, over other ports, it would be forbidden by the Constitution.

These arguments had the more force, because it was well known that a power to grant charters of incorporation had been proposed in the general convention, and had been rejected. The power to create corporations is an important power, because it confers important civil rights, which could not otherwise be claimed. It may thus be assimilated to the benefits conferred by naturalization. In giving to corporations the right to make by-laws, a sort of legislative power is conferred on them.

It was further urged that the bill gives to the bank the right to hold land in a State, which Congress did not itself possess. It involves a monopoly, which affects the equal rights of the citizens; and it leads to penal

regulations, which are among the most solemn acts of sovereign authority.

The opponents of the bill made a distinction between a power necessary and proper for the government, and one necessary and proper for executing the enumerated powers. The latter only could be implied. In the case of the government, all such powers were expressly enumerated: they said that had the power of making treaties been omitted, however necessary such a power might have been, the defect could not have been supplied by implication.

Further arguments against the power were deduced from cotemporary expositions of the Constitution in the State conventions, and in the proposed amendments, as to the meaning of the words "necessary and proper," and as to remote or refined implications.

The supporters of the bill, on the other hand, maintained: that Congress may exercise powers not expressly granted by the Constitution; in proof of which, numerous acts were referred to, as erecting light-houses, laws to govern seamen, and some others, because they are incident to the power to regulate trade. No one could doubt that Congress could lend money, or redeem their captives in Algiers; yet those powers are not expressly given. To declare in detail all that a government may do would be impossible, and has never been attempted. In doubtful cases there may be as much (or even more) mischief in forbearing to exercise a power as in exercising it.

They insisted that Congress may do any thing that is necessary and proper to the end for which it was created. They regarded banks, by their utility, and the general use made of them by civilized nations, to be of that character. They alone could furnish money to the government on a sudden emergency. It cannot be said

that this may be affected by paper-money, since there is no express grant of the power to issue paper-money. The power to govern the western territory is not expressly given, but is implied from the power to make needful rules and regulations concerning it. The power to borrow money was of narrow use without the institution of a bank.

They denied that the proper interpretation of the words "necessary and proper" was the same as "indispensable;" these merely meant to refer to known and usual means to facilitate ends which were permitted by the Constitution. That banks were among the known and usual means to enable the government with most ease, and the least burthen to the people, to collect taxes, borrow money, regulate commerce, raise and support armaments; which was sufficient to prove their constitutionality.

That as to cotemporaneous exposition, it would appear from the amendments proposed by New Hampshire, Massachusetts, and New York, by which Congress was prohibited from establishing companies with exclusive privileges, that those States considered Congress to possess that power, under the Constitution.

That, in authorising the bank to purchase real estate, Congress did not make any new grant of power, since every individual, or association of individuals, had that power, and the act was rather a restriction on this general right than a grant of a new right.

That, under the charter of incorporation, the stockholders as a body can do nothing which they could not have done in their individual character without the charter; and the only difference was, that some facilities were given to them in the management of their business, such as to bring suits in their common name, receive deeds,



and the like, by which the association is benefited, and no one is injured. A private bank might do every thing which this incorporated bank is permitted to do, but they could not do it with the same facility to themselves, or safety to the public.

That, according to all the rules for interpreting written instruments, they were justified in giving to the Constitution a liberal rather than a strict construction; the one being alone likely to fulfil the purposes of its framers, while the other would defeat them.

The importance, nay, the necessity of a bank; to enable the government to borrow money in a season of war, or other emergency, was proved when the Bank of North America was established by the old Confederation. As an example of implying powers in the government from their necessity, utility, and reasonableness, the removability of officers by the President was urged, the Constitution being silent on the subject, and the power of removal not being necessary, in the strict sense, for the execution of any other power.

It was said there was no motion in the Convention to give power to establish a bank, but merely to erect commercial corporations, which was negatived, as it ought to have been.

It was denied to be a monopoly, as the States may form similar corporations. They said it was not true that the Federal Government may not hold lands, as it may hold them by execution, conquest, or treaty; and, moreover, that Congress had often vested others with powers which itself could not exercise.

Replies to all these arguments were made by Messrs. Madison, Stone, and Gates.

The debate was closed on the eighth of February, when, on taking the question, there appeared to be

thirty-nine votes in favor of the bill, and twenty against it. Here, too, the division was by a geographical line—all the dissentients being south of the Potomac, except Grout, of Massachusetts; and all the supporters of the bill being north, except Steele, of North Carolina, and Smith, of South Carolina.

The arguments on this subject are given more fully, because the same question was agitated on two occasions afterwards—in 1814, and 1832 to 1836—with yet more interest and vehemence, when the decision then made by large majorities in both Houses of Congress, and which had been previously sanctioned by the judiciary, and acquiesced in by the people for forty years, was reversed, and the authority of that reversal may, according to all present appearances, become permanent.

This question (as well as many others) affords a further illustration of the uncertainty which is inherent in the interpretation of all written constitutions; and that men will always be divided, not only about the meaning of the language used, but whether those fundamental laws should be construed in a liberal or strict sense.

On this subject, so fruitful of discord, and affording so much aliment to party spirit in free countries, it may be remarked, that in all doubtful cases, that is, cases in which the precepts of the Constitution are not clear and precise, there are two rules of construction, which seem to have very different degrees of merit.

One is, to try to find out the purpose or intention of the framers of the Constitution, from their arguments, and the circumstances of the times—showing the good sought to be attained or the evil to be remedied—and to make that intention the governing rule, as in the case of private testators.

Another is, to disregard all extrinsic circumstances, as

leading to vagueness and uncertainty, and to consult the language alone as the only mode by which a certain and uniform rule is to be attained.

The public interest seems strongly to recommend the second rule; for, in the changes which time is ever bringing in human affairs, and in the progressive advancement of a nation, a course of policy which was wise at one time may not be so at another; and views which the framers of the Constitution entertained, and which, it must be recollected, were in the main speculative, may be proved, by the lights of experience, no longer expedient. It would, therefore, be impolitic to seek to give to such any additional force, by referring to the probable wishes of the framers. To make these wishes our guide, in doubtful cases of construction, would be to postpone experience to mere speculation.

The same considerations justify us in giving a large or a narrow construction to the terms of the Constitution, according as they will best promote the public interest and happiness. Such, indeed, has commonly been the prevalent course of the Legislature on all great questions; such, indeed, is the dictate of common sense in our practical application of every law, human or divine.

The bill which established the bank granted a charter for twenty years. Its capital was ten millions, of which one-fourth was to be paid in specie, and three-fourths in public stock. The government might subscribe to two millions of the stock. The bank was allowed to establish branches in any of the States, and to lend to the General government a sum not exceeding one hundred thousand dollars, or to any State more than fifty thousand dollars. It was subjected to prudent restrictions and regulations.

As the leading members of Congress were so divided about the constitutionality of a national bank, General



Washington, with his wonted anxiety to do right, and wise precautions to ascertain what was right, requested the opinions in writing of the members of his Cabinet, before he decided on giving his signature to the bill. The Secretary of State and Attorney-General were clear that Congress had not the power, while the other two members were as decided in the opposition. After well weighing these opinions, he concurred in the decision of Congress, and signed the bill. These opinions for and against the constitutionality of the bank, were drawn respectively by Mr. Jefferson and Mr. Hamilton, and exhibit their accustomed ability. Yet one can scarcely doubt that both of them were greatly influenced by the bearing the proposed institution was believed by each of the newly-formed parties to have on its respective interests, especially when it is recollected that so many leading politicians have, under the bias of party feelings, changed their opinions on this agitated subject.

In the preceding autumn, the expedition against the Indians on the Wabash, which was mentioned by the President, in his opening message, had not met with the success expected from it. The regular forces, amounting to three hundred and sixty men, under the command of General Harmer, who was a veteran of the Revolution, was joined by militia of Pennsylvania and Kentucky, so as to raise his force to above fourteen hundred men. In several rencounters with the Indians, the troops' under Harmer had been repulsed with great loss, which induced the President to ask Congress to authorise the addition of another regiment to the regular force, and also to cause two thousand of new levies to be raised for six months.

At this session two new members were added to the Union. The people of Kentucky, who had been many

years aiming to form a separate State, had at length obtained the consent of Virginia, the parent State; and having petitioned Congress to pass a law admitting them, a bill for this purpose was passed on the ninth of February, 1791.

A bill for the immediate admission of Vermont, in like manner originated in the Senate, and was passed by the House on the eighteenth of February, 1791.<sup>1</sup>

The local jealousy of political power was here manifested—as it long continued to be—in an unwillingness to make any addition to it either in the North or the South, without a corresponding addition in the opposite quarter.

On the third of March, the first Congress terminated by the provisions of the Constitution, having, in the course of three sessions in the two years, done all that was most essential to organize the new government, and to put it into efficient operation; and the course they cautiously and judiciously marked out has, with slight modifications, remained in force ever since.

<sup>1</sup> See Appendix No. VII. for a notice of the controversies respecting the territory of Vermont.

## CHAPTER VI.

### WASHINGTON'S ADMINISTRATION.

#### FIRST TERM.

1791—1793.

THE President having previously made a tour through the Northern States, was induced, after the rising of Congress, to make a similar visit to the South: but before he set out, he exercised the power assigned to him by Congress, of laying off, by Commissioners appointed for that purpose, the ten miles square which Maryland and Virginia had granted to the United States for the permanent seat of government; and an engineer of reputation thereupon planned a city which, in its extent, was better adapted to what the United States would probably need in the course of a century than to its present wants.

In his Southern excursion, the President derived much pleasure, as well as instruction, from the personal knowledge he thus acquired of the condition of the country, and of public sentiment.

"The people at large," he says, "have felt the security which it [the General government] gives, and the equal justice which it administers to them. The farmer, the merchant, and the mechanic have seen their several interests attended to, and thence they unite in placing a confidence in their representatives, as well as in those in whose hands the execution of the laws is placed. Industry has there taken the place of idleness, and economy of dissipation. Two or three years of good crops, and a ready



market for the produce of their lands, have put every one in good humor; and in some instances they even impute to the government what is due only to the goodness of Providence.”<sup>1</sup>

In the course of this summer, the first census of the inhabitants was taken, according to which the whole number was 3,929,827 :

Of whites.....	3,172,464
Of free colored persons.....	59,466
Of slaves.....	697,897
<hr/>	
Total.....	3,929,827

The gross population of the States north of Delaware, having 40,000 slaves, was 1,968,455; and in the Southern and Western States, having 657,047 slaves, the gross population was 1,961,374.

The white males having been distinguished into those who were sixteen years and upwards, and those under that age, it was remarked that it divided them into two nearly equal portions.

Separated as the United States are by more than three thousand miles from Europe, they might seem to have no very direct interest in the affairs of that continent; but in the present state of the world no civilized nation, especially one so commercial as the United States, could fail to have important and interesting relations with the principal nations of Europe.

The state of those relations at this time we will now notice.

We have seen that Great Britain was unwilling not only to enter into a commercial treaty with her former colonies, but even to treat them with the courtesy that prevails among civilized nations, of sending a diplomatic

representative. But as some agent of her government was deemed important to her interests, an aid-de-camp of the Governor of Canada was at Philadelphia, in the character of an informal agent of his government, and he doubtless discharged one of the offices of diplomacy, perhaps the most important, of keeping his employers apprised of the sentiments and views of the leading men in the United States, and of their probable future policy.

It was soon found that the continuance of this fastidious course by Great Britain would be a sacrifice of her interests to her pride. The favor with which Mr. Madison's retaliatory propositions had been received by a large minority in Congress, gave her assurance that the United States were prepared to adopt a policy, by which her commercial interests generally, and her West India interests in particular, might be seriously affected. The terms of the treaty of peace were, moreover, still unexecuted; and though she still retained the posts which she had agreed to surrender, and though the claims against her for a part of the slaves carried away were unsatisfied, yet these failures on her part afforded no sufficient compensation for the large amount of debts due from American citizens to British subjects, and which could not yet be recovered by law, according to the stipulations of the treaty of Paris.

Mr. Gouverneur Morris, who was about to go to Europe, had been appointed by the President to sound the British government as to their views towards the United States; and in his conferences with different members of the British ministry, he found that there was no disposition to form a commercial treaty with the American Republic; and they did not hesitate to avow that they should retain the northern posts, if the delay in the American government to fulfil its engagements

should render the execution impracticable,<sup>1</sup> until redress should be made for the failure, and also for the delay. They refused to point out what parts of the treaty were rendered impracticable, and showed little disposition to afford any explanation whatever.

Nor was this all the cause of complaint on the part of the United States. The recent hostilities of the Northern Indians were supposed to have been prompted by British agents in Canada; and it was known that they had been furnished with military stores, which was as inconsistent with the duties of a nation in the relation of peace and friendship, as with those of humanity.

In April, 1791, the President wrote to Mr. Jefferson to make a representation to Lord Dorchester, or other officer commanding in Canada, of the delivery of large supplies of ammunition from British posts to the hostile Indians in the year before. General Washington expressed his surprise and disappointment, but, at the same time, he was very guarded in his language, and submitted to Mr. Jefferson either to treat the matter with great delicacy, or to decline it altogether.

Such were the relations between the two countries when Mr. Hammond was appointed Minister from Great Britain to the United States. He reached Philadelphia in August, and soon entered into a long diplomatic correspondence with the American Secretary of State.

The principal difficulty with Spain was also unsettled. When, in 1790, a misunderstanding arose between Great Britain and Spain about the settlement of the latter at Nootka Sound, which for a time threatened to lead to a rupture, the United States deemed this a propitious moment to press on Spain their right to a free navigation of the Mississippi, to which their natural claim

<sup>1</sup> V. Marshall, page 277.



seemed to be as just as it was important. Their *Chargé d'Affaires*, Mr. Carmichael, was accordingly so instructed; and terms were proposed which, in allowing them the navigation of a river that was the boundary of several of the States, would also give safety to the Spanish possessions to the west of it. But the adjustment of the dispute between Great Britain and Spain soon put an end to all hopes of advantage expected from that dispute, and the navigation of the Mississippi continued on the same precarious footing as before.

The relations with France, which had hitherto been altogether friendly, were destined to undergo a great change in consequence of that political revolution which not only overturned the throne and the altar in France, but whose bold innovations in every department of the social system electrified the whole civilized world.

While all parties in America seemed at first to look with favorable eyes on the political changes in France as likely to better the condition of a nation which had materially assisted the United States in achieving their independence, and which was thus more assimilated in government to themselves, yet the excesses to which it was soon led in its progress were found to be very differently viewed by different portions of American citizens; and while some, in their enthusiasm for the liberty the French people professed, were disposed to excuse their crimes, as well as their folly and anarchy, others regarded them first with doubt, then with fear, and lastly with undisguised abhorrence. Those sentiments then, for a time, became the principal source of party division, and in the United States it almost swallowed up every other.

This effect was already perceptible at the epoch of which we write, in 1791, but it did not attain its utmost height until some years later.

Under this head we may also notice the relations with the Indians, which, in their diversified character, constitute no insignificant item in the concerns of the Federal government. With some one or more of their various tribes the United States are often at open war, and as, in time of peace, treaties are negotiated for the purchase of their lands, many of them are thus pensioners of the Federal government. The trade with them is subjected to strict regulation, for the sake of protecting them from both the frauds and the open violence of the whites; and lastly, their gradual advancement in the arts of civilized life, and especially of agriculture, has ever been a cherished object with this government.

It has been fortunate for the settlement of the western wilderness that the ownership of the soil has been uniformly recognized to be in its original occupants, and that the right to make purchases from them has always been reserved exclusively to the government; for if private individuals or associations had been allowed this privilege, the large bodies of land which the cupidity of capitalists would have easily obtained from the Indians, with their recklessness of the future, and their resistless craving for intoxicating liquors, would have impeded the settlement of the country, and laid the foundation for overgrown landed estates, which are more or less unfavorable to republican institutions, and would have narrowed the territory of the aborigines, by which their numbers would be reduced, and their means of subsistence rendered more precarious.

But, notwithstanding this precaution, it has been found impossible to prevent collisions between them and the whites, whenever, in the progress of the latter, the two come into contact. As the Indians know themselves to be the weaker party, and foresee that they must even-

tually yield to the superior power and resources of civilized men, they are seldom the aggressors; and generally, it is not until after a succession of injuries, to which they see no end, that they, in despair, take up arms, and find a brief consolation in the sufferings they are able to inflict on their enemies, before they are reduced to submission. Revenge being, then, their sole object, it overleaps all restraint, and the lives of all whites, without regard to age or sex, are indiscriminately sacrificed.

General Washington, in April, 1791, wrote to Alexander Hamilton: "Every expedient is tried to avert a war with the hostile tribes of Indians, and to keep those who are in treaty with us, as I believe you know, in good humor: but I am almost thoroughly convinced that neither will be effected, or, if effected, will be of short duration, whilst land-jobbing, and the disorderly conduct of our borderers, are suffered with impunity, and while the States individually are omitting no occasion to intermeddle in matters which belong to the General government."<sup>1</sup> He afterwards adds: "To sum up the whole in a few words, the interference of States, and the speculations of individuals, will be the bane of all our public measures."

Soon after the British Minister's arrival, Thomas Pinckney, of South Carolina, was appointed Minister from the United States to Great Britain; Gouverneur Morris, Minister to France; and William Short, who had been left by Mr. Jefferson as *Chargé d'Affaires* in France, was sent to join Carnichael in Spain.

As it was decided to chastise the Indians on the northern frontier, if they could not be intimidated into peace, the President determined to put all the means in his power into requisition. The chief command was

<sup>1</sup> V. Sparks's Washington, page 155.



given to General St. Clair, at that time Governor of the Territory north-west of Ohio; the command of the new levies was given to General Butler; and of the militia, to General Scott. While the main force was collecting, an expedition of five hundred mounted men under Scott was sent against them, and attacking the tribes on the Wabash, they were dispersed, and their villages burnt. Peace would have been effected, but for the interference of the British commander at Fort Erie.

A second expedition of mounted volunteers under Wilkinson, in August, was also successful, though not to the same extent.

In the election of members to the second Congress, which took place during this year, in most of the States, especially the Southern, the rival candidates were supported as friends or opponents of the administration, or rather of its measures, for the popularity of General Washington was not yet visibly impaired, and Alexander Hamilton was the chief object of attack by the anti-Federal party.

A majority of the members returned from Virginia, and the States south of it, belonged to this party, of which the Secretary of State, known to be decidedly opposed to all of Hamilton's financial schemes, was regarded as the head. But in the Middle and the Northern States the Federal party had the ascendancy. That party had received a great accession of strength from the funding of the public debt, the assumption of the State debts, the establishment of a bank, and from the encouragement given to navigation, commerce, and some branches of manufacture by the tonnage duties and impost. The public confidence in the efficiency and stability of the government which those measures had produced, the extension of mercantile credit, and the

increased activity of commerce, being attributed to the salutary power of the new government, and the prudent exercise of those powers, procured for it great popularity, and in the loud encomiums of its friends its former opponents were for the time completely silenced. Among those who now supported the leading measures of the administration were found some who had been at first opposed to the new Constitution. Mr. Madison was the only conspicuous instance of the opposite change. His present course not only coincided with the opinions of Mr. Jefferson, for which he had always shown great respect, but it was also in accordance with what seemed now to be the ruling sentiment in Virginia.

The second Congress met on the twenty-fourth of October, 1791.

Among the subjects of congratulation by the President, in his opening speech to Congress, he particularly dwells on the progress of every branch of national industry, which he attributes to the public confidence produced by the Federal Constitution and laws. In his notice of Indian affairs, then in a threatening and unsettled state, he recommends, as making a resort to coercion unnecessary, besides precautions for the protection of their rights, such experiments "for imparting to them the blessings of civilization," as would be suitable to their condition. Such a course, he adds, would be as honorable to the national character as it was conformable to sound policy.

He adverts to some local discontents to which the tax on distilled spirits had given rise, and which, originating in misconception, would yield to proper explanations: at the same time he advises a revision of the excise act, that, as far as practicable, the administration of the laws might rest on the affections of the people.

After mentioning the principal measures of the admin-

istration during the recess—Indian treaty, census, foreign measures, the new District of Columbia—he renews his former recommendations of particular objects of legislation; as the post-office, militia, fortifications, the vacant land, and the establishment of a mint; and points out the importance of each.

An undiminished personal respect for the Chief Magistrate was indicated by the answers of both Houses.<sup>1</sup>

A bill in the House of Representatives for a new apportionment of members to that body, in conformity with the recent census, proposed thirty thousand as the number of inhabitants for each Representative, which would give one hundred and thirteen members. They were induced to adopt the lowest ratio permitted by the Constitution, because the House would be thereby better able, by its numbers, to resist the undue influence of the Senate, which was supposed to be more aristocratic in its tendencies.

The Senate, however, by its amendments, substituted thirty-three thousand, as a ratio that would lessen the fractions remaining to the States after their proportion of members were severally allotted to them. The House refused to concur in this amendment, and the Senate adhering to it, the bill was lost.

By a second bill, the House again proposed the ratio of thirty thousand, and also a new census previous to an apportionment. The Senate rejected the new census, and proposed, by allowing a member to the largest fractions, to make the number of Representatives one hundred and twenty. This amendment being disagreed to by the House, the subject was referred to a committee of conference, which at first could come to no agreement;

<sup>1</sup> I. American State Papers, page 22.



but the House finally receded by a vote of thirty-one to twenty-nine.

Since this matter had been so warmly debated, and all the Northern members were opposed to all the Southern, and since the bill was regarded by many as inconsistent with that provision of the Constitution which declares that the number of Representatives shall not exceed one for every thirty thousand of its Federal population, the President, with his wonted caution, took the opinion of his Cabinet on the subject before he acted. Messrs. Jefferson and Randolph were clear that the bill was repugnant to the Constitution. Messrs. Hamilton and Knox did not regard the question as free from doubt, but advised the President to sign the bill. He, however, considered it unconstitutional, and sent it back to Congress with his objections, which were :

First. The Constitution has prescribed that Representatives shall be apportioned among the several States according to their respective numbers ; and there is no one proportion or divisor which, applied to the respective numbers of the States, will yield the number and allotment of Representatives proposed by the bill.

Second. The Constitution has also provided that the number of Representatives shall not exceed one for every thirty thousand ; which restriction is, by the context, and by fair and obvious construction, to be applied to the separate and respective numbers of the States ; and the bill has allotted to eight of the States more than one for every thirty thousand.

This subject of apportionment which has, after every succeeding census, been a source of irritating controversy in Congress, in the contests of the members for the political power of their respective States, or in their readiness to seize on every question by which they may gain credit

for patriotic zeal with their constituents, has been happily settled by the bill introduced by Mr. Vinton in 1850, by which the number of Representatives being fixed, the ratio of apportionment is a mere question of arithmetic, and leaves no discretion or ground of discussion to the Legislature.

Of the two objections made by the President, the last, which is conclusive, can never again recur, as the numbers proposed for choosing a Representative must always greatly exceed thirty thousand. But the first objection is less satisfactory. It refers to that clause of the Constitution which requires representation and taxation to be apportioned among the States *according to their respective numbers* (second Section of the first Article). Now this provision cannot be literally complied with, since there can be no ratio that will give to all the States the precise representation which is due to their respective numbers, or that will not leave some portion of their numbers unrepresented. The Constitution, however, must be presumed to have aimed only at what was practical and attainable, and, consequently, must have looked to an approximation to an apportionment according to numbers; and that approximation might be as close (perhaps closer) by giving to a State a member for a large fraction beyond its respective quota, as by having its fraction unrepresented. In other words, if fractions are to be disregarded, then the States whose fractions are the smallest, have more than their share of the representation, and the other States, less. But if a large fraction is allowed a representative, then the State having such fraction has more than its share; and thus that course seems best to fulfil the purpose of the Constitution which does the least injustice.

Upon a reconsideration in the House, the bill was lost by thirty-three votes to twenty-nine.

A third bill, fixing the ratio at thirty-three thousand, was then passed by both Houses, which made the whole number of Representatives one hundred and five members.

Let us now return to the war against the Indians in the north-west.

It was September before the main army, under St. Clair, consisting of about two thousand men, were ready to march. They were subsequently joined by some hundreds of Kentucky militia. Their numbers had been so reduced by detachments to garrison distant forts, and by desertion, that they had but fourteen hundred men remaining, who, by one of those ambuscades in which the savage has peculiar skill, and places much reliance, they were completely routed, with great loss. General Butler, who had the chief command, fell in the action; St. Clair was confined to his tent by disease. The loss was about nine hundred men in this action, known as St. Clair's defeat.<sup>1</sup> The number of the Indians has been estimated at from one thousand to one thousand eight hundred men.

In December news arrived of the defeat, on the fourth of November, and the fact being communicated to Congress, it was necessary to make further preparation to carry on the war against the Indians.

A bill was brought in, on the suggestion of the Execu-

<sup>1</sup> The precise number was as follows. In killed: thirty-eight commissioned officers; five hundred and ninety-three non-commissioned officers and privates; total, six hundred and thirty-one. Wounded: twenty-one commissioned officers; two hundred and forty-two non-commissioned officers and privates; total, two hundred and sixty-three. Making a total of eight hundred and ninety-four killed and wounded.



tive, to authorise the raising of three additional regiments, and a squadron of cavalry, to serve for three years, unless peace should sooner be made with the Indians, or the President should think it was prudent to discharge them sooner.

This increase of the army was earnestly opposed by the members in the opposition, from its necessary consequence of increasing the power of the Executive, and the expenditure of the government; but after a warm debate, and some disagreement between the two Houses as to its details, the bill finally passed both Houses, by which the regular force for the time was increased to about five thousand men. By another bill the power was given to the Executive of calling out the militia to execute the laws of the Union, suppress insurrection, and to repel invasion.

With the increase of the standing military force required by the Indian hostilities, an increase of revenue was the natural consequence.

A report of the Secretary of the Treasury on the best mode of raising the additional supplies thus required, was animadverted on by the opposition as an improper interference with their own powers and duties by a department of the Executive.

Another report from the same officer, after considering and answering the objections that had been urged against the excise, suggested some alterations which he thought likely to render it more acceptable, as it had now manifestly excited great discontent in the western portions of the country, especially in Pennsylvania.

Of the three modes of raising the additions to the revenue required, that is, the sale of the bank stock owned by the government, a public loan, or taxes, the Secretary gave preference to the last; and to this end

he recommended additions to the impost. His recommendations were substantially adopted.

In pursuance of a resolution of the House of Representatives at the preceding session, the Secretary of the Treasury proposed an able and elaborate report on the policy of encouraging the manufactures of the United States; and although this subject was one that engrossed the public attention, more than any other, both in Congress and out of it, for some fifteen or twenty years, and was more fully discussed, scarcely an addition had been made to the arguments which he then adduced in favor of that policy; assuming, however, what has been so warmly controverted since, that Congress had the constitutional power of giving this protection.

He had, at the previous session, prepared a long report on the subject of a mint, in which he discussed very fully the several questions of the relative value of gold and silver, the policy of making one or both metals standards of value, or, as he called them, the money unit of the United States; whether the coinage should be free, or subjected to the charge of its cost; the various species of coin; and the regulations of the mint.

Though this report shows the writer's wonted ability, yet it will less bear the test of examination than most of his other reports; and on the two most important points of a single or double standard, and whether or not the coinage should be gratuitous, he is opposed by all the theorists of the first reputation in the present day, in his preference of a double standard, and of a gratuitous coinage over a seignorage. Both of these errors proved mischievous in practice, and the influence of his opinions has not yet passed away.

A law was enacted in conformity with his views, which provided for the issuing of coins of gold, silver, and cop-

per, adapted to decimal proportions; both the two former to be equally legal tenders; estimating the proportion between the two at fifteen to one; and making the coining gratuitous. The establishment was placed under the management of a director, and provisions made for appropriate officers and regulations.

On the subject of the device on the coin, new aliment was afforded to the nascent parties for suspicion and crimination. It was proposed, according to the practice in the monarchies of Europe, to place the head of the President, with his name, on the coins, which was vehemently opposed by many as inconsistent with the equality and simplicity of republican government, and as indicating a disposition to assimilate the Chief Magistrate of the United States to a monarch. While one party thus accused the other of anti-republican tendencies, their motives, in turn, were said to be a personal jealousy of the President, and a preposterous dread of what must be insignificant in its consequences. It could not be seen, it was urged by them, how the head of the President on the coin could endanger the liberties of the country, as if a measure might not be highly objectionable, although it might fall far short of that ruinous consequence. On this question, also, the opposition more correctly anticipated the judgment of posterity than their adversaries.

An occasion occurred at this session for the judiciary department to assert its independence, or rather to pronounce on the constitutionality of an act of Congress.

An act allowing pensions to invalids required that applicants should exhibit the evidence of their claims to the Federal Courts. The Federal Circuit Court of New York, on application to it by a claimant for a pension, decided that the act was unconstitutional, because Congress could not impose on the Court duties which were not



judicial; nor give, as the act did, to the Secretary of War, or any one else, a revisory power over their decisions: on which Congress repealed the law of the succeeding session—thus virtually recognizing the power which the judiciary had assumed, of being the rightful expounders of the Constitution.

As all the public creditors had not availed themselves of the terms offered by the act which funded the public debt, further time was allowed them to convert their claims into stock. It was also proposed to make further assumptions of the State debts, as the debts of some of them exceeded the proposed assumption; but it being proposed, by way of doing equal justice among the States, that such assumption should be extended to that portion of the State debts which had been paid off since the peace, the proposition was negatived, and with it the further assumption was lost.

By virtue of the power given to Congress to provide for the cases of the removal, death, resignation, or inability both of the President and Vice-President, a bill was passed at this session which provided that, in case of there being neither President nor Vice-President competent to act, the President of the Senate, or if there was none, the Speaker of the House of Representatives, was to act as President until the removal of the disability, or a new election, to be held the first Wednesday in December, after two months' notice by the Secretary of State to the State Executives. An objection was made to this provision, because the Constitution referred to an "officer," and the temporary President of the Senate was denied to be an officer; but the objection was not sustained.

The same bill regulated the time when the electors of President and Vice-President should vote; should return

their votes to the seat of government; when they should be opened and counted.<sup>1</sup>

On the fifth of March, the President transmitted to Congress a letter from the King of France, informing him that he had accepted the new Constitution of that country.

The House, by resolution, expressed their satisfaction on the occasion, and requested the President to communicate their participation in the interests of the French nation; in which all the members but two concurred.

But as to the latter part of the same resolution, which spoke their wish that a wisdom and magnanimity displayed in the formation and acceptance of the Constitution, "might be rewarded by the most perfect attainment of its object, the permanent happiness of so great a people," the votes were thirty-five in the affirmative, and sixteen in the negative.

The subject was more discreetly and courteously disposed of in the Senate by the following resolution:

That the President "be requested to make known to the King of the French the satisfaction with which the Senate of the United States has received the official communication of his acceptance of a Constitution, which, it is their earnest wish, may establish, on a solid basis, the freedom and prosperity of the French nation, and the happiness and glory of the monarch presiding over it."

In both Houses, the majorities on this subject were composed of members of both parties, and the minorities were the high-toned Federalists, who were the warmest supporters of the Secretary of the Treasury.

<sup>1</sup> The votes were to be given in the several States, at such places as their several Legislatures should designate, on the first Wednesday of December; be returned to the seat of government by the first Wednesday of January; and be counted on the second Wednesday of February.

Congress adjourned, on the eighth of May to the first Monday in November.

In the early part of the correspondence between the Secretary of State and Mr. Hammond, that Minister informed Mr. Jefferson that he had no power to *conclude* any definitive arrangement respecting the commercial intercourse of the two countries, but that he was fully authorised to *enter* into a negotiation for that purpose, on principles of reciprocal benefit. The first topic of correspondence between those gentlemen was therefore limited to such parts of the treaty of peace as were still unexecuted. This proved to be a laborious duty on both sides.

Mr. Jefferson, in a letter to Mr. Hammond, proposed that each party should specify the acts of the other that were considered to contravene the treaty, and he begins by stating the acts of this character on the part of Great Britain. These were:

First: The failure to surrender the military posts in her possession, of which he designates seven on the great western lakes. He adds, that British officers had exercised jurisdiction over the country and inhabitants in the vicinity of those posts; by which proceedings American citizens had been cut off from the fur trade, and, consequently, deprived of the means of cultivating peace with the Indians.

Second: That a large embarkation of negroes, the property of American citizens, had taken place at New York, before the arrival of the American Commissioners: that near three thousand more were carried away by order of the British Commander, against the remonstrance of the Commissioners; and that many others had been carried off in private vessels. In support of these, and some minor causes of complaint, he subjoins satisfactory official testimony. He invites Mr. Hammond, on his part, to



state the particular acts of the United States which his Britannic Majesty considers to be in contravention of the fourth, fifth, and sixth articles of the treaty of peace.

Mr. Hammond, in his reply of the fifth of March, 1792, arranges the supposed infractions of the treaty by the United States under two heads: First. That the recommendations of Congress respecting British loyalists had not been regarded. Second. That the State Legislatures had done or omitted acts positively stipulated by the treaty.

Under this last head he complains that the States had not repealed the laws which passed before the peace for confiscating the property of loyalists; and had, since the peace, enacted laws which contravened the treaty: which laws relate either to the estates or the persons of loyalists; or to the recovery of debts due to British subjects. He complains also of the decisions of the State Courts. On all these points he dilates at great length, and he annexes to his letter the particular legislative acts referred to, each designated by its title and date, and which amount in all to near a hundred. He specially complains of the failure of most of the States to pay interest on their debts during the war, and says that, in some of the Southern States, not a single British debt had been recovered since the peace.

On the twenty-ninth of May, Mr. Jefferson replied to Mr. Hammond at great length. He examines the alleged infractions of treaty under the three heads: first, of exile and confiscations; second, debts; third, interest. As to the first, he remarks that it was entirely competent to the States to pass the laws complained of, and that the repeal of those laws after the peace had not been stipulated by the treaty, but was merely to be *recommended* by Congress, with which engagement Congress had punc-

tually complied. That there had been no act of this character since the peace, and though there had been, it was void by the paramount force of treaties over State laws, as all the State Courts expressly recognized; and thus the injured party had the means of redress in their own hands. He vindicated the State judicatures against every charge, and showed that they all had been open to British creditors. On the subject of interest, he justified the States for deducting it during the war, on several distinct grounds. Having thus answered every complaint urged by Mr. Hammond, he argued that Great Britain had no ground for refusing to comply with her express stipulations in the seventh article of the treaty. He concluded in the same conciliatory tone which both parties had manifested throughout the correspondence.

Mr. Hammond, on the second of June, after expressing, in general terms, his dissent from some of the principles relied on, and some of the facts stated by Mr. Jefferson, said he should transmit Mr. Jefferson's letter to his government, and thus closed this part of their correspondence.

That division of political sentiment which was now so clearly manifested in Congress, had extended itself to the two members of the Cabinet, Messrs. Jefferson and Hamilton, and the breach between them naturally gaining strength from time, was greatly widened by the agency of the press. The two leading newspapers in Philadelphia were *Fenno's Gazette*, which supported Hamilton and his party, and *Freneau's*, which assailed Hamilton and his leading measures, and defended Jefferson.

This want of harmony in the two leading members of the Cabinet caused great regret and anxiety to General Washington and increased his desire to quit his present

office; but as both Jefferson and Hamilton concurred in urging upon him strong considerations of public interest to serve a second term, he consented, and received the same unanimous vote as before.

Having thus consented to serve a second term, he redoubled his efforts to reconcile the discord between his two Secretaries, and succeeded so far as to procure from both promises of forbearance and of conciliation, but these offices of intercession were interrupted in the autumn by the increased violence of the discontents occasioned by the excise law.

This law must, under any circumstances, have been an unwelcome tax to the people who lived in the West. Not then accommodated with their present facilities of transportation, or even with good roads across their mountains, they had but little trade with the Atlantic cities, and only procured from them such articles as were indispensable to their simple and frugal style of living. They therefore had very little money, and the excise on their whiskey, by which alone they could make their grain marketable, threatened to deprive them of that little. They regarded the tax, therefore, as far more burdensome on them than the impost was on the Atlantic population, possessing, as it did, the choice of the markets of the world.

To this solid foundation for their hostility to the law, were added the political objections which had been urged to it by the opposition, that, by subjecting the citizens generally to the domiciliary visits of revenue officers, it was peculiarly odious, and was repugnant to the genius of a free people. These objections had the greater weight with many, because they were led to believe that the necessity for further revenue had been created by a majority in Congress. by an assumption of the State debts,



for the purpose of increasing the power and patronage of the government, and of augmenting the gains of greedy speculators, in Congress as well as out of it.

There had been an organized opposition to the law by a public meeting in Pittsburg in the preceding year, and alterations in the act of Congress had been made on the suggestion of Hamilton, with the view of obviating some of those objections. They had not, however, answered their intended purpose. The opposition continued to gain strength. From censure, the opponents of the law proceeded to open resistance.

The President, on learning this state of things, issued a proclamation, in which he represented to the malcontents the consequences of their illegal course. He further wrote to the Attorney-General to prosecute the offenders, and to attend to the prosecution in person.

The Indian war in the north-west also claimed the attention of the government. It was deemed indispensable to appoint a new commander of the army, while St. Clair's conduct was about to undergo investigation in Congress, and by a military tribunal. The President was disposed to appoint General Henry Lee, then Governor of Virginia, to this post, but having soon ascertained that those who had been his seniors in the army would be unwilling to serve under him, and that if the army should again be unsuccessful under juniors, the course of the administration would be subjected to censure, he (apparently with some hesitation) appointed General Wayne to the command.

The Declaration of Rights by the National Assembly, together with the efforts of the *Amis des Noirs* in Paris, induced the free people of color in St. Domingo to assert claims in the island, to which the colonists refusing assent, the mulattoes and their white friends took up

arms. The French government finding the value of the colony impaired, and perhaps its dominion and authority in jeopardy, endeavored at first to restore the former condition of things; but on the fifteenth of May, 1791, they passed a decree which extended to the people of color the right of suffrage, and made them eligible to the colonial Legislature; and this decree being violently resisted by the whites, the breach between the two races was thus widened, and in the following August the slaves, who again were disposed to assert their rights, conspired to massacre the whites, and partially effected their purpose, with the practice of every enormity that their savage fury and animosity could suggest. Many of the survivors sought an asylum in the United States.

Congress assembled on the fifth of November, and in the opening speech of the President, the most prominent feature was the continuance of Indian hostility, in spite of the efforts of the Government to bring it to a termination. He added that there were symptoms of an unfriendly spirit on the part of the Southern Indians. He accordingly had aimed to prepare for war also with them.

He again urges on Congress the necessity of repressing the outrages of the whites on these people, by the employment of respectable agents to reside among them, and by the promotion of civilization in the friendly tribes.

He stated that the revenue was productive, and would have been more so, but for the impediments to the collection of duties on distilled spirits. The opposition, however, had greatly narrowed in extent, but had increased in violence in particular districts. Measures had been taken to prosecute the offenders.

He further recommended a revision of the judiciary system; preventive measures against the aggressions of

American citizens on the territory of other nations; the execution of the law which established the mint; some reforms in the post-office, to facilitate the transmission of newspapers; and the negotiation of loans for nine millions of florins on account of the public debt, and for its reduction, the terms of which, he said, indicated a most favorable state of the public credit abroad.

The answers of both Houses evince views entirely in harmony with those of the Executive, especially as to the principal measures of the Indian war, the opposition to the revenue laws, and the reduction of the public debt.

The next day, the President communicated to both Houses certain papers relative to the interference of Spanish authorities in the execution of the treaty between the United States and the Creek Indians, in 1790.

It appeared by these papers that Spain complained of the boundary line determined by the treaty with the Creeks as including a part of their territory, and which they say ought not to have been made until the negotiation then going on between the United States and Spain was terminated.

The Secretary of State, in answer to a letter from the Spanish Commissioners, Messrs. Viar and Jaudenes, stated to them that the allegation of threats by the United States against the Creeks was unfounded: that they, on the contrary, had made every endeavor to preserve peace with these Indians, and had, with that view, suspended running the boundary line agreed on by treaty, under the hope that, on further consideration, they would freely concur in carrying it into execution. He agreed that the interests which either nation had with those Indians, are a proper subject of discussion in the negotiation now going on at Madrid by the American Commissioners there.



The disposition which the Creeks had shown not to execute the treaty, was attributed with good cause to the intrigues of Spanish agents, who insisted that the treaty made by the Indians with the United States was inconsistent with the previous treaties of the Indians with Spain.

As General Washington's first term would close early in the ensuing year, and a new election must ensue during the current year, some explanations which took place in reference to that subject must be here noticed. The President was strongly inclined to give up the power and patronage attached to the office, for the sake of being rid of its cares; and retiring to Mount Vernon, there follow the more grateful pursuits of agriculture, and enjoy domestic ease. It is probable, too, that the want of harmony between the two leading members of his Cabinet, contributed not a little to make his continuance in office irksome. But this controversy cannot be understood without a review of the progress of political parties in the United States, and of their actual condition at that time.

Experience tells us that, in civilized countries having even a moderate portion of freedom, the mass of the community will divide itself into two political parties; for they result from the universal principles of man's moral nature.

Next to our more imperious physical wants, one of our strongest, if not the very strongest, of our desires is the love of power, love of freedom, and impatience of restraint; for these are but different names for the same natural emotion, which at one time shows itself in the edicts of a tyrant, and at another, in the excesses of a popular insurrection. Now this love of power, or freedom of action, in each individual, naturally clashes with the same feeling in others; and every one judges of the force

of this instinct in others by the consciousness of its strength in himself. But while all are thus satisfied of the existence of this feeling, and of its probable conflicts with the same feeling in himself or others, it is viewed very differently by different minds and tempers. Some are disposed to regard it with dread, and some to brave it and resist it. Some think it most mischievous or dangerous when exerted by a single individual or a few; and others, when it is exercised by a multitude.

In both these cases of abuse the proper check is found in the same emotion. Thus the self-will of a monarch or an aristocracy is encountered by the love of freedom in the people; and the excesses or injustice of a majority or a mob are restrained by the authority of the magistrate.

In these principles of our common nature, we see the foundation of the two great parties spoken of. One man thinks the injustice and violence of great numbers the more probable and more formidable social evil, and therefore he inclines to strengthen the power of the civil magistrate, and to restrict popular freedom. Another, on the contrary, thinks that the evil of abuse of power is most probable from those who exercise the authority of the laws, and he is therefore more jealous of the government, and disposed to circumscribe its power whenever he can.

These conflicting parties not only severally desire or refuse to give power to the magistrate; they also severally favor or oppose whatever is likely to increase his influence—even to mere ceremonials and the outward forms of respect. It was, therefore, that one party in the United States favored and the other opposed giving a title of honor to the President—putting his effigy on the coin—his name in the precepts issued from the law courts—in

making discriminations between the two Houses of Congress to indicate the higher dignity of the Senate — in the President's levees, his opening speeches, and other imitations of monarchical forms.

There was another source of division growing out of that complex system of polity by which the attributes of sovereignty are here divided between the General government and the individual States. That class which was more jealous of the power of government than of the people, inclined to the States rather than to the authority of the Union on all questions of their relative powers; while those who had less confidence in the people, inclined to strengthen the General government.

Already, too, the French Revolution was viewed with different eyes by the two parties — one, enthusiastic in its favor, were the ready apologists for its errors and its excesses, while the other, looking chiefly to its violence and its crimes, viewed it with unmitigated horror and distrust. On the other hand, while the unfriendly sentiments excited in the minds of Americans towards England by the War of the Revolution, were habitually aggravated by the popular party, they were studiously mitigated on the part of the Federalists, until, by the natural progress of the passions, this party became its open friends and advocates.

Alexander Hamilton belonged to the last class, and Thomas Jefferson to the first; and personal rivalry, in all probability, lent its force to their mutual hostility. The two parties soon had, as is usual, their respective supporters in the periodical press. *Fenno's Gazette* was the organ of the Federalists, or Hamilton's party; and *Freneau's* of the Republican party, as they now styled themselves, of which Jefferson was regarded as the leader. Hamilton himself, as well as his friends, did not disdain to use the columns of *Fenno's* paper for assailing his



adversary, as well as in his own defence. Jefferson's friends, on the other hand, attacked Hamilton and his measures in the rival Gazette.

The charges brought by these polemics against Jefferson were, that he was not only hostile to Hamilton, whom he habitually calumniated and disparaged with the public, but was also unfriendly to the administration of which he was a member, and even to General Washington himself: that he encouraged and prompted the opposition party in Congress, and patronized Freneau, now openly assailing the measures of the administration, by giving him an appointment in the State department: that, finding two men in the way of his own advancement—Messrs. Adams and Hamilton—he, by open attacks through the press, and yet more by secret slanders, systematically aimed to bring them into discredit; and for the sake of ruining these rivals with the public, he would not hesitate to destroy the wisest and most conservative institutions of the country.

The charges against Hamilton were, that he systematically sought to assimilate the Federal government of the United States to that of Great Britain, for which he did not conceal his theoretic preference and cordial admiration: that his plan of funding the public debt, of assuming the State debts, of making portions of those debts irredeemable, of establishing a bank, and laying an excise were all parts of his settled scheme of augmenting the power and patronage of the Federal government, of making the wealthy classes obsequious to his wishes, and of lessening the weight of the States.

This discord between the two members of his Cabinet on whose counsels he most relied, gave General Washington much anxiety. He had a high opinion of the merits of both Jefferson and Hamilton, and probably was

not blind to the faults of either. He exerted himself to bring about a reconciliation between them, and having communicated to them his wishes, he received letters from them both, in which each aimed at his own vindication.

In a letter from Washington to Jefferson, in August, 1792, after adverting to the dissensions in his Cabinet, he says, "My earnest wish, and my fondest hope, therefore, is, that instead of wounding suspicions and irritating charges, there may be liberal allowances, mutual forbearances, and temporizing yielding on all sides." In a subsequent letter he says, "I regret, deeply regret the difference of opinion which has arisen, and divided you and another principal officer of the government; and wish devoutly there could be an accommodation of them by mutual yieldings." He then adds: "I will frankly and solemnly declare that I believe the views of both to be pure and well-meant; and that experience only will decide with respect to the salubrity of the measures which are the subject of this dispute."<sup>1</sup>

The President having indicated his purpose of retiring at the end of his first term, it accorded with the views both of Hamilton and Jefferson to urge him to serve four years longer, each of them believing that his party would gain strength by Washington serving a second term. Jefferson, in a long letter, dated in May, 1792, insists on the President's continuance in office, as necessary to defeat the anti-republican tendencies of the government, which he openly, and in unmeasured terms, exposes.

In answer to these charges, General Washington, in a subsequent conversation, remarked "that he would conquer his desire for retirement, if he believed the apprehensions of danger were well founded; but that he

<sup>1</sup> V. Marshall, page 355.

thought the suspicions against a particular party had been carried a great deal too far. There might be 'desires,' but he did not believe there were 'designs' to change the form of government into a monarchy; that there might be a few who wished it, in the higher walks of life, particularly in the great cities, but that the main body of the people in the Eastern States were as steadily for republicanism as in the Southern."<sup>1</sup>

Hamilton's letter, in reply to Washington, was in a more conciliatory tone than Jefferson's. He professed himself ready to smooth the path of the President's administration, so far as it might depend on him, though he considered himself as the injured party; and he added, that if the President's efforts to heal existing differences should prove unsuccessful, he believed that the public good would soon require substitutes for the members of his administration. He did not doubt there was a formed party deliberately bent upon a subversion of measures which, in its consequences, would subvert the government.

Thus serious and bitter were the suspicions entertained, and the charges which these leaders shared with the vulgar herd of their followers, but which had then made no impression on the firm and impartial mind of Washington, who, it must be recollected, had the best opportunity for forming a correct judgment, and who was, moreover, as scrutinizing and as distrustful of human weakness as was compatible with such rare integrity of purpose as his own.

On the cooler survey that we are now enabled to take of this bitter feud, which, beginning in the Cabinet, extended itself to all the politicians of the Union, we see

<sup>1</sup> I. Life of Jefferson, page 388.



enough to show the justness of Washington's conclusions, and that much of the party accusation against these distinguished statesmen was unfounded.

It is not true that either wished to subvert the Federal Constitution : on the contrary, they both desired to maintain it — each according to his views of the public good ; Hamilton to give it all the energy and authority it was susceptible of, and Jefferson only so much as was necessary to fulfil its useful purposes. Jefferson thought the Federal government might become too strong for the equipoise of the States. Hamilton believed the danger to be the other way, and that to insure either stability or wisdom in the measures of the General government, it must exercise a controlling power over the States.

Nor is it true that Jefferson wished to destroy public credit, or repudiate the debt, or that Hamilton wished to perpetuate it. None of the debt was irredeemable, except for a limited time ; and though it had been, it might be extinguished by purchase from its holders, at its market prices.

Nor does there appear to have been any thing in Mr. Jefferson's relations with Freneau at all inconsistent with his official duties, or his professions to General Washington. In truth, for the first years after that paper was established, it contained nothing at all against the President, and nothing against Hamilton, except some series of essays signed Brutus, Decius, and the like, in which the policy of the funding system, the assumption, the Bank, and indeed all the leading measures suggested by the Secretary of the Treasury, were earnestly assailed ; but always by arguments, which, whether sound or otherwise, were addressed to the understanding, were open to answers ; and which never

transcended the wonted limits of fair political discussion. There is no proof that Mr. Jefferson had any agency in producing these papers; but though he had, with the views which he entertained, and did not conceal in the Cabinet, or out of it, he would have been rather discharging than violating a moral duty, by endeavoring to bring the public to his way of thinking on the subject.

One of the first acts of the House of Representatives was the consideration of the report of the committee on the subject of St. Clair's defeat, which had been made at the close of the preceding session. As this report had passed censures on some of the officers of the army, which were considered to bear both on the War and the Treasury Departments, it was moved that the Secretaries of these Departments should be required to attend the House to give the requisite explanations. But a proper sense of their own dignity, as well as jealousy of Hamilton's influence, produced an earnest opposition to the motion by the republican party, and it was rejected. A course every way preferable was suggested by Mr. Madison, which was to recommit the report to the original committee, before whom the Secretaries should be permitted to attend. This course was adopted, and thus a precedent, so likely to increase the heat often already too great for deliberation, was arrested on the threshold, and has never been revived.

Mr. Fitzsimmons having moved, on the twenty-first of November, to refer the subject of the redemption of the public debt, recommended by the President, to the Secretary of the Treasury, who was required to report a plan for that purpose, the motion was opposed by the republicans, under the influence of the same jealousy of their

own dignity, and of the Secretary's influence.<sup>1</sup> This motion, like the preceding, was the subject of a lively debate, but it finally prevailed by a vote of thirty-two to twenty-five.

The following day it was also moved to refer to the same officer, to report a plan for immediately reimbursing the loan of the bank to the government, and which, by the terms of the loan, it was required to pay in two annual instalments. This motion was adopted without debate, probably because the opposition party did not again choose to make an unavailing resistance, rather than because they approved of the reference; or, because they viewed the measure itself with favor, knowing as they did that the proposed advance to the bank would be particularly acceptable at that time, when that institution was pressed for money, and that many of the members were holders of its stock, and might be influenced in their votes by a wish to favor it.

A week later, the Secretary made a report on both subjects. On that of redeeming the debt, after noticing three plans, he gave a preference to that of loans, on the credit of short annuities; and, to meet the interest, he proposed a tax either on riding-horses or pleasure-carriages. For reimbursing the bank, he recommended that the whole sum due (two millions) be borrowed, by which measure, he stated, the government would gain thirty-five thou-

<sup>1</sup> That those who had professed themselves anxious to discharge the public debt, and who had made it a matter of serious reproach against Hamilton that he wished to perpetuate it, should be now opposed to its redemption, is presented by Judge Marshall as an instance of party inconsistency or disingenuousness. It is, however, due to those he censures to state that their opposition to the motion turned principally on the attempt to devolve their own financial duties on the Secretary of the Treasury, whose settled maxims of policy they disapproved, and whose influence they consequently did not wish to increase.



sand dollars a year — that being the estimated difference between the interest on the loan, and that contracted to be paid to the bank.

This report, and the papers to which it referred, suggested an unwarranted attack on the official conduct of the Secretary of the Treasury, which had the effect of increasing his popularity with the impartial portion of the community — for with the speculators and moneyed classes, generally, it scarcely admitted of increase — and of injuring the opposition.

We have seen that the funding system recommended by Hamilton, and adopted by Congress, whatever other merit it might have had, could not boast of its simplicity. Modelled after that of Great Britain in its details, it also copied that complexity which time, and the immense amount of the national debt, had introduced into the English finances.

Mr. Jefferson, judging harshly of his rival, used to say that Hamilton made his system intricate, that it might be unintelligible, except to the initiated few; but the variety of its terms offered to the public creditors might have had no other motive than that which Hamilton assigned — one plan being preferred by some men, and another plan by another — or if we must search for a motive to a complexity for which no necessity can now be seen, it may be found in that love of praise to which no man who can earn it is insensible, and which now found gratification in exhibiting a species of talent which was then rare in the country, and which had been most egregiously and almost ridiculously overrated. He naturally wished to show that he had the talents required for this office, and the greater its difficulties, the greater was his merit in mastering them.

From some passages in his report, or in the papers

appended to it, Mr. Giles hastily drew conclusions that the finances had been illegally and improperly managed by the Secretary.

He therefore, confident in the soundness of his views, and in his ability to explain them, made an attack against the Secretary on a point on which it is probable that no man was more invulnerable.

Mr. Giles frankly declared that he had not been able to understand the Secretary's financial reports, and then, in a plausible statement of facts, he showed that the loans made of the bank were unnecessary, as the government at that very time had deposits to an amount exceeding the loan.

The resolutions of Mr. Giles were referred to the Committee of the Whole, by a decisive majority.

Mr. Hamilton, in his vindication, could not disguise his indignant feelings towards his assailants, and in language scarcely consistent with the respect considered due to a member of the Legislature, he pointed out a tissue of errors both of fact and reasoning, and which he thought ought not to be referred to gross ignorance, and which he intimated must be ascribed to discreditable motives. He satisfied all that none of the public money was unaccounted for, and that the funds of the treasury had been honestly, and perhaps judiciously, used.

After this report, or rather series of reports, was concluded, Mr. Giles presented a new set of resolutions, in which the Secretary was charged with violating the acts of August fourth and August twelfth, which authorised two several loans for two different purposes, by his blending the two loans: they further alleged that, in doing so, he had also exceeded the authority given him by the President, and that he had been guilty of a great inde-

corum in arraigning the motives of the members of the Legislature who had instituted the inquiry.

These resolutions were warmly debated for two days by Messrs. Giles, Findley, Mercer, and Madison, in support of them; and by Messrs. Barnwell, Smith of Delaware, Ames, Lawrence, and Gerry against them.

Mr. Madison earnestly supported the resolutions of his colleagues, and having shown that the terms of the acts of Congress, and the instructions of the Magistrate had not been complied with, he considered it impossible that the majority could negative resolutions which affirmed those facts. He assailed also, with much force, the reasons which the Secretary had urged in his justification for bringing over from Europe funds which had been there obtained by loan, and in not communicating the receipt of the money to the Commissioners of the Sinking fund.

Mr. Findley showed that the bank had been assisted by the public deposits at the very times it most needed aid, and that the money which had been obtained on interest was thus suffered to be unproductive.

Every deviation from the letter of the acts of Congress, and of the President's instructions, was ingeniously defended; and Mr. Madison having urged that the negotiation of loans constituted no part of the Secretary's official duty, but was confided exclusively to the head of the Executive, he was taunted with inconsistency in censuring the Secretary for not giving information to the Commissioners of the Sinking fund that he had received the proceeds of the loan into the treasury, as if it made any difference in the Secretary's duties touching the actual state of the treasury, whether the money it contained proceeded from one source or another.

The resolutions were, however, rejected by very large



majorities, not more than sixteen voting in favor of any one, and not more than seven or eight in favor of most of them.

When there was such a concurrence of voices in favor of exculpating the Secretary, we must suppose that the charges were regarded by men of both parties as either unsustained, or of too frivolous a character to warrant the censure of the House on a man whose ability all acknowledged, and whose integrity was no longer questioned. Yet the weight of this exculpatory vote was not a little diminished by the fact that the majority comprehended three bank directors, and some fifteen or more stockholders of the bank, who had a direct interest in the accommodation which had been afforded to the bank.<sup>1</sup>

Soon after the Secretary's report on the thirtieth of November, the Federal party proposed the assumption of the balances which should be found due from the United States to the individual States, which was opposed by the opponents to the former assumption. A decisive majority were, however, in favor of it; and when an amendment was proposed by a member of the opposition, which was calculated to prevent the holders of these debts from becoming the prey of speculators, the amendment was rejected. On the passage of the bill, the House being equally divided, it was carried by the vote of the Speaker.

In the discussion of the bill for repaying the two millions borrowed of the bank, Mr. Madison, not deeming it prudent for the Government, in the state of its finances, to anticipate this payment of two millions to the United States, for the chance of saving thirty-five thousand dollars, and which Hamilton himself soon reduced to twenty

<sup>1</sup> See Mr. Jefferson's explanation of the vote of the House, in his *Am. March 2d, 1793.*

thousand dollars a year, liable as it was to be reduced by commissions, loss of interest by delay, to say nothing of fluctuations of exchange, proposed to insert two hundred thousand dollars—the amount of the stipulated annual payment—in lieu of the two millions, which was rejected by a single vote.

The bill was not, however, passed, nor was it finally acted on until the twenty-seventh of February, when the motion to strike out the first section (one of the modes of rejecting a bill) which in December had received but seventeen votes, was passed without opposition.

What had occasioned this change in two months? No visible cause is presented, except that the new assumption bill had been, in the interval, rejected by the Senate, under the influence, as Mr. Jefferson suggests, of the President,<sup>1</sup> who prevailed on Mr. Langdon to vote against it, and who probably also influenced his colleague, Mr. Wingate. After this bill failed, which would have presented so fair an opportunity of speculation by those who had money, or could borrow it, it was no longer an object with those who had such views to furnish the bank with new means of lending. The two bills had been introduced nearly at the same time, and since, after one had failed, the other was suffered to fail when they had the means of passing it, the fact seems to show that the two were connected together, and that while one offered the occasion of speculation, the other provided the means of profiting by it.<sup>2</sup>

<sup>1</sup> Am. IV. Jefferson, page 478. :

<sup>2</sup> It was boldly denied by Mr. Sedgwick in Congress that members of that body had speculated in the public debt when they were about to fund it, and this has been regarded as sufficient to stamp Mr. Jefferson's charges as unfounded calumnies. In the absence of positive proof, we

Mr. Ames concluded the debate in a speech of a very conciliatory character. He readily testified to the purity of the motives of the mover of the resolutions; but he appealed, in a strain of persuasive eloquence, to the mischievous consequences of this want of harmony between the different branches of the government both at home and abroad, and besought the House, when they were satisfied that the motives of the Secretary were pure, and that he had aimed to promote the public welfare, not to inflict the disproportionate punishment for exercising his discretionary powers somewhat further than the law allowed. It is not improbable that the majority was increased by this speech.

During these financial discussions, a subject was introduced which never failed to touch the sensibility of a portion of the Southern members. This was the subject of the slave-trade. Abolition societies from most of the States had petitioned Congress against this trade, both at this and the preceding session, but these petitions had been laid on the table. A petition, however, from Warner Mifflin, a Quaker, against slavery itself, had been presented in the early part of the session, and this having also been laid on the table, Mr. Steele, on a subsequent day, brought it to the notice of the House, and moved that it be returned to its author. After some remarks by Mr. Smith, of South Carolina, the motion was carried.

Connected with this subject was a law in the execution must resort to probabilities, and they seem greatly to be in favor of the truth of Mr. Jefferson's views, from the following facts:

The charge was made and repeated again and again after Mr. Sedgwick's denial as before. In one case, it was urged by a writer who gave his name, Henry Banks, who stated that many members had grown suddenly rich, without any visible cause for the change: and he alleges that large credits were advanced to members to enable them to purchase stock.



of that clause of the Constitution which provides that persons held to service in one State, and escaping into another, shall be delivered up to the party to whom such service is due.

The law provided that the claimant, in such cases, might seize the fugitive, thus bound to service, and carry him before a judge or magistrate, and on proof of the facts, the magistrate might grant a certificate of the same, which was a warrant to take back the fugitive to the State from which he had fled. Any person obstructing the seizure or removal, or harboring the fugitive, incurred a penalty of eight hundred dollars.

This act continued in force until some years subsequently, when the feeling against slavery having greatly increased in strength, most of the non-slaveholding States, availing themselves of a decision made by the Supreme Court, that Congress had no power to impose duties on officers of the States, prohibited their magistrates from carrying the act of Congress against fugitives into execution. The consequence of which course was, that the law was unexecuted, and the claimants of fugitive slaves, under the provision of the Constitution, were without legal redress.

At the session of the Supreme Court of the United States in February, in a suit brought against the State of Georgia, the question was raised whether a State was liable to be sued; and all the judges, except one, decided that a State might be sued, in conformity with an express provision of the Federal Constitution.

This decision, supposed to be repugnant to the sovereignty of the States, and evidently mortifying to State pride, induced Mr. Sedgwick to propose an amendment to the Constitution taking away their liability to suits, which finally prevailed, and constituted the eleventh

amendment to the Constitution as framed by the Convention in 1787.

The claims of the continental officers of Massachusetts were, after a short debate, rejected by a large majority.

The third of March put a constitutional end to the second Congress.

We may here pause to take a brief review of the progress and condition of the country during the lapse of four years since its present government went into operation.

In consequence of the powers vested in that government, justice to its creditors both at home and abroad had been vindicated, and so much confidence was felt as well in the ability as the good faith of the country to fulfil its engagements, that it found no difficulty in borrowing money in Europe on moderate terms, to the utmost extent of its wants. It had organized efficient systems for its treasury, its judiciary, its post-offices, its military forces, and its liberal and humane policy towards the aborigines of the country.

By the exercise of its power to regulate trade, in place of the rival and conflicting policy of different States, the injurious discriminations of other countries had been retaliated; a large and increasing revenue had been collected from the impost; and a spring having been thus given to navigation, to commerce, to manufactures, and to agriculture, the employment of four-fifths of the people had been proportionally benefited.

Opposition to the new government, once extending, in some of the States, to a moiety of their population, had gradually died away, and had now narrowed down to the spirit by which it was supposed to be administered, and even to a part of the individuals who composed the administration.

If the rise of new parties, and an increasing bitterness between them, was some drawback, and indeed not a small one from the aggregate sum of national prosperity, it must be recollected that this evil is inseparable from the good of civil freedom, and that these party bickerings are not an uncompensated evil. They beget vigilance in one party, and circumspection in the other, by which much mischief is prevented, and occasionally their active rivalry produces a degree of positive good that would not otherwise exist.

The character of these parties, as we have seen, has its foundation in the principles of our common nature. They arise from the greater fear that some men have of the abuse of power when it is exercised by one or a few, and others have when it is exercised by multitudes. In the phases which these parties have exhibited in the United States, while cotemporaries find in one of them little to blame, and in the other little to commend, those who come after them, if they have the faculty of discrimination with candor, will occasionally meet with somewhat to commend and somewhat to censure in both. They will find suspicions to have been often unfounded, motives misrepresented, evil tendencies grossly exaggerated; and measures once supposed to threaten the welfare, or even safety of the community, to prove harmless and insignificant. What vestige now remains of the evils confidently predicted from either French or English influence? What of the corrupting tendencies of the Bank, or of the disloyalty to the Union of the Western States, formerly such fruitful themes of danger with political croakers?

Of those parties which prevailed during the administration of General Washington, it is probable that each contributed its part towards the public welfare. But



for the republican jealousy of one party, the other might have attempted, and even have effected some changes in the government not in harmony with the genius and temper of the American people; and but for the Federalists, the General government might not have had that degree of power which subsequent experience has shown to be necessary. It might not have quelled, or attempted to quell the Pennsylvania insurrection, and the example of successful or unpunished resistance to the laws might have been followed by other States, and have led to more serious consequences.

If one party had possessed a greater preponderance, we might have been involved in the calamities of war, on the side of France; or, if the other had prevailed, we might have taken up arms against her. In either case, the wealth and prosperity of the country had probably been postponed ten or twenty years, to say nothing of the injury which might have resulted to its political institutions. Nay, in the short-sightedness of human wisdom, if Hamilton's party had entirely prevailed, their means of strengthening the government might have eventually led to that wild spirit of democracy which they dreaded; and, on the other hand, if Jefferson's policy had met with no counteraction, the undue power of the States and of popular resistance to salutary laws might, by a natural reaction, have led to a more energetic government, whose burdens and restraints men would have chosen to bear for the sake of the partial protection it afforded; and as the oak attains its most vigorous growth under alternate storms and sunshine, so to the clashing tendencies of those opposite parties, the United States owe the highest civil freedom which is compatible with the salutary restraints of law and order.

## CHAPTER VII.

### WASHINGTON'S ADMINISTRATION.

#### SECOND TERM.

1793—1795.

THE administration, which had hitherto met with nothing to disturb its tranquillity but those party dissensions from which no people who are at once able to think and free to speak, are exempt, was soon to be put to more serious trials of its capacities and strength. At home it was about to encounter insurrection, and abroad it was threatened with the alternative of having its rights of navigation and commerce invaded by the belligerents of Europe, or of being subjected to the burdens and hazards of war.

Early in 1793, England, who had, until then, remained a quiet, if not an indifferent spectator of the popular excesses in France, partook of the general sympathy excited in behalf of the royal family; and, after the execution of Louis XVI., decided on war. But the French republic, aware of that purpose, determined to be beforehand with its great rival, and declared war as soon as the British government had withdrawn its minister from Paris, and ceased to recognize the French minister in England.

The President, who, as we have seen, was about to serve a second term, soon found that the war between France and England would give rise to important questions of policy in the United States, and that it would

be difficult to preserve that neutrality between the belligerents which was so suited to the circumstances of his country, and so essential to its continued prosperity. The great mass of the American people had looked on the recent revolution in France with the liveliest interest, not merely because their sympathies would naturally side with a nation struggling for civil freedom, but also because they were grateful for the services rendered by France in their own war of independence, and because, moreover, they considered the new-born spirit of liberty in France had taken its origin from the American Revolution. The recollection of their long and bitter contest with Great Britain was too recent, kept alive as it was by her commercial restrictions, for the national resentment to have entirely subsided. A large part of the American people, therefore, when they found that Great Britain was at war with France, for no other reason than that she had overthrown her own monarchy, was disposed to make common cause with their old ally, especially when the cause was that of civil liberty.

The President, aware of this state of the public mind, and impelled by every consideration of patriotic prudence to preserve the neutrality of the United States if he could, wrote from Mount Vernon, whither he had repaired after the rising of Congress, to the members of his Cabinet on the importance of this policy, and of the dangers which threatened it. Hastening back to Philadelphia, he submitted to their consideration a number of queries as to the course to be pursued towards France, the most material of which were:—should a proclamation issue, warning the citizens of the United States against taking part in the war? should a Minister from the party in power in that country be received at once? were the treaties between the United States and France still in



force? were we bound by the guarantee of the French islands in the treaty of 1778; and if so, was the present war of France offensive or defensive?

In favor of issuing such a proclamation, the Cabinet was unanimous.

They also agreed that the President should receive a Minister from the republic, but as to the mode of his reception the members widely differed. Messrs. Jefferson and Randolph thought there should be no deviation from the ordinary mode. Messrs. Hamilton and Knox thought otherwise. They asserted the right of a nation to absolve itself from its treaty obligations with another country, when such a change had taken place in the circumstances of that country as to render a continuance of the connection dangerous or disadvantageous to the other party.

Applying this principle to the present state of things in France, in which the power of the government could not yet be considered permanent, and to the immense foreign force then arrayed against the new republic, they urged that a continuance of the former close connection between the two countries, especially if the guarantee was enforced, might prove dangerous to the safety of the United States. They therefore thought that the obligation of the treaties with France should be reserved for future consideration.

As to the clause of the guarantee, they also differed. Messrs. Jefferson and Randolph considered there was no present necessity for deciding this question; while Messrs. Hamilton and Knox regarded the treaty of alliance as merely defensive, and, consequently, that the guarantee could not be insisted on, in an offensive war, like the present.

Their adversaries denied that the guarantee would

necessarily involve the United States in a war. They asked, Are we to enter into war before we are called on by our allies? Can they call on us before their islands are invaded, or imminently threatened? If they can save themselves, have they any right to call on us? Are we obliged to go to war at once, without first trying negotiations with their enemy? Will the islands be lost, if we do not save them? Have we the means of saving them? If we cannot save them, are we bound to go to war for a desperate object. These questions offer grounds of doubt whether the guarantee would draw us into war, and, consequently, the danger was not certain enough to warrant us in declaring the treaties null.

They denied that any course now taken would deprive the United States of the future right of non-compliance with the treaty, when compliance would involve us in serious and inevitable danger; that it would be unwise, therefore, to incur the imputation of bad faith, when it might be unnecessary, and would relieve us from no future evil from which we could not as well, or better, relieve ourselves, if we showed a present disposition to comply with our engagements.

The President having requested the opinions of his Secretaries in writing, they were given at length by Mr. Jefferson and Colonel Hamilton; and on examining them with his wonted care, he concurred with the Secretary of State, and decided on receiving a Minister without qualification; and that the subject of the guarantee did not require an immediate decision.

The proclamation of neutrality having been decided on, it was forthwith prepared, and issued on the twenty-second of April, by the Attorney-General. It reminded the citizens of the United States of their duty and interest to observe neutrality towards the belligerent nations

of Europe, and warned them, that if they, by hostilities against any of those belligerents, incurred punishment under the law of nations, they would not receive the protection of the United States.

A short time before the proclamation issued, a Minister from France, in the place of the one who had been appointed by the unfortunate Louis, arrived at Charleston, South Carolina. This Envoy, familiarly known as citizen Genet, according to the mode of designation then prevalent in France, was a man of warm temperament, zealously devoted to the cause of the revolution, and cordially co-operating with its leaders in propagating the new-born passion for liberty in every other country. He spoke English fluently, and being impressed with the conviction that the people of the United States were strongly disposed to make common cause with France, while the policy of the government was suspected to incline more to Great Britain, he determined to improve the popular sentiment as far as he could; and, if possible, to involve the United States in a war with Great Britain. Such, indeed, were the instructions of those who sent him.

He was received in Charleston with enthusiasm, and his journey from that place to Philadelphia bore the character rather of a conqueror returning from a successful campaign, than that of a messenger of peace and of national courtesies.

The day after he reached Philadelphia, and before his official credentials were presented, he received addresses of compliment and congratulation from different societies, to which he replied in the most fervid and exaggerated strain.

The next day he had an interview with the President, when he declared that by reason of the distance of the



United States from the theatre of action in Europe, and from other considerations, France did not wish them to engage in the war. This assurance was the more readily credited because France had an obvious interest in the neutrality of the United States, as she could, by means of their shipping, carry on foreign commerce, especially with her colonies, that might be otherwise impracticable.

In the course of his short stay in Charleston, Genet authorised the fitting out and arming of vessels in that port, and gave them commissions to cruise against the enemies of France. The French consuls in the United States were, moreover, authorised by him to hold courts of vice-admiralty on any vessels their cruisers might capture, to condemn them, and sell the prizes. A British ship from Philadelphia had been already captured by a French cruiser within the capes of the Delaware.

This capture and the acts of sovereign authority exercised by Genet had been made ground of formal complaint by the British minister Hammond, and he had demanded a restitution of all vessels thus illegally captured.

It was agreed by the Cabinet that these acts were violations of the sovereignty of the United States; that they should for the future be prevented, and that such American citizens as had participated in them should be punished.

On the question of restoring the captured property, the Cabinet differed. Messrs. Jefferson and Randolph urged that if the commissions issued by citizen Genet were invalid, the captures were void, and the courts would award restitution. If, on the other hand, the commissions were good, the legal right was in the captor, and could be taken from him only by force, that is, by an act of reprisal for the offence against the United States; but

that reprisal was a serious matter, and ought to be preceded by a demand and refusal of satisfaction. It is generally considered to be an act of war, and never fails to produce it.

Even if it was a fit case for reprisal, the power of taking this course belonged to Congress, and not to the Executive. As to the injury done to the United States, they were the sole judges of that injury, and of the proper reparation. The course which the Executive had now taken was sufficient to justify it with Great Britain. They were therefore of opinion that the vessels captured by French cruisers on the high seas ought not to be returned by the United States.

Messrs. Hamilton and Knox were of a different opinion. They maintained that a neutral, permitting itself to be made an instrument of hostility, becomes a party in the war: that, in the case supposed, the United States would thus possess the means of annoyance, while they were protected from retaliation by a pretended neutrality.

It being thus inconsistent with neutrality for the United States to permit privateers to be fitted out in their ports, it would follow that they must remedy the injury which had been committed: that the wrong had been done before the government had the means of preventing it might be an excuse, but was no justification. It could have no force when the prizes were brought into the United States, and thus placed within their power and jurisdiction.

Although the commissions were valid as to the belligerent parties, they were not so as to the United States. For the violation of their rights they were entitled to reparation. There could be no indefeasible right to property obtained by a violation of the rights of the United States. These commissions, though void as to the United

States, yet being valid between the belligerents, the case was not proper for the decision of the courts, but to be settled by reasons of State, not rules of laws. It was the case in which the national sovereignty having been violated, to the injury of a third party, the nation is bound to demand reparation, that, in thus doing justice to another, it might do justice to itself. On those grounds they thought restitution should be made.<sup>1</sup>

The President reserved for future consideration the question on which his Cabinet was thus divided; but as to the other points on which they were agreed, the Secretary of State was requested to communicate them both to the French and British Ministers, and also to address circulars to the State Executives, requiring their co-operation; and, for preventing a repetition of such violations of sovereignty, to use force, if necessary.

The letter written by Mr. Jefferson to the French Minister, on this occasion, was addressed to Mr. Ternant, and it contained all the complaints urged by the British Minister against acts of French citizens as violations of the neutrality of the United States, and also the opinion of the Attorney-General, that the seizure of the British ship *Grange* by the frigate within the capes of the Delaware was illegal. This letter was the next day delivered by Ternant to his successor Genet, who, in his reply, denied either the facts or the law relied on by the British Minister, except the capture of the *Grange*, as to which, acquiescing in the opinion of the Attorney-General, he had ordered her to be restored.

In a second letter from Mr. Jefferson, the rights and duties of the United States as a sovereign and a neutral nation are again insisted on, and Mr. Genet is told that they expect, as a reparation for their violated sovereignty,

<sup>1</sup> V. Marshall, page 417.



that the vessels illegally equipped within their limits, would leave their ports.

This request, the envoy resists in a vehement and not very respectful tone. He persists in his own first construction of the treaties between the two nations, of the rights of France, and of the duties of neutrality. He urges that an obstruction to the arming of French vessels in the ports of the United States would expose them to inevitable ruin, which, he added, is certainly not the intention of the people of America. In more than one passage of his letter he contrasted the conduct of the American government with the generous sympathy of the American people.

In the same offensive style he had, some days before, demanded the release of two citizens of the United States, who had been arrested for offending against the laws, by enlisting under citizen Genet to cruise in the service of France.

We may now wonder at the temper and forbearance then exhibited by the government, and which could arise only from its determination to afford no sort of color to the suspicions beginning to prevail, that the administration was secretly unfriendly to the French Revolution. This forbearance was naturally interpreted by Genet into a conviction on the part of the Government that the people would not bear a more decided opposition to his course, bold and arrogant as it was. Public sentiment, as indicated by popular meetings, and by societies, modelled after the Jacobin clubs of Paris, was well calculated to confirm one of his sanguine temper in these impressions. He was thus emboldened to put himself in direct opposition to the American Government, and trusted to the known force of the popular will in the United States to ensure his eventual triumph.

It was not long before this strange state of things produced its natural results, and brought citizen Genet's diplomacy to a crisis.

An English letter-of-marque, the *Little Sarah*, had been captured by a French frigate, and sent into Philadelphia, where she was fitted out as a privateer, under the name of "*La Petit Democrat*," and manned partly by American citizens.

Governor Mifflin having learnt these facts, and also that the privateer was to sail the next day, sent his Secretary of State, Mr. Dallas, to Mr. Genet, to request him to detain the vessel until the return of the President, then on his journey from Virginia, and thus to relieve the Governor from the necessity of employing force.

To this application Genet returned a most intemperate reply, censuring the administration and its course; threatening to publish his correspondence by way of appealing from the Government to the people, and to leave the country. He peremptorily refused to interfere with the sailing of the privateer, which, he said, in defending the honor of her flag, would certainly repel force by force.

The Governor then ordered out one hundred and twenty militia, for the purpose of taking possession of "*The Little Democrat*," and communicated the facts to officers of the Federal Government. The next day the Secretary of State called on Genet, and endeavored to induce him to pledge his word that the vessel should not depart before the President's return. The envoy conducted himself in the same passionate and indecorous style as with Mr. Dallas. But after a while, becoming cooler, he entreated that no attempt should be made to take possession of the vessel by force, as such an attempt would be repelled by force. He said she was not yet

ready to sail, but would merely fall a little way down the river. On Mr. Jefferson's reporting this conversation to Governor Mifflin, and stating his belief that the vessel would not depart before the President's return, the Governor ordered the militia to be discharged; and he further consulted the officers of the Government as to the course he should pursue.

Here, too, the members of the Cabinet disagreed. Messrs. Hamilton and Knox thought a battery should be erected on Mud Island, to prevent the departure of the vessel, in case it should be attempted before the President's return. Mr. Jefferson<sup>1</sup> not approving of this course, it was not adopted. The privateer then fell down the river, below Mud Island, as far as Chester.

The President reached Philadelphia on the eleventh of July, and called a meeting of his Cabinet the next day. It was then decided to request the answer of the Judges of the Supreme Court to a series of questions on the points of difference between the Government and the French Minister relative to the treaty with France, and in the mean time to detain such privateers as had been equipped by any of the belligerents within the United States. This decision was forthwith communicated to Mr. Genet; but, without regard to it, or to his implied consent that "The Little Democrat" would abide the determination of the Government, in the course of four or five days she proceeded on her cruise.

It was clear that the administration did not think it prudent to resort to coercive measures for the purpose of detaining "The Little Democrat;" and though it may now seem more consistent with the dignity of the Government to have used the same means at Chester which had been first intended at Philadelphia for arrest-

<sup>1</sup> The Attorney-General was then in Virginia.



ing her voyage, even though bloodshed had been the consequence, yet when the temper of the popular mind, so strongly inclined to take sides with France, is considered, and that disaffection to the Government had now manifested itself in the western part of Pennsylvania by an open resistance to the laws, it was probably the wiser course not further to excite the popular feeling, especially as it might increase the suspicions of the leaning of the administration against France, and in favor of Great Britain; and so far lessen its weight and efficiency at the time they were most needed. That force was not resorted to for the purpose of preventing the departure of "The Little Democrat," is expressly ascribed "to the forbearance of the Government," in an official letter subsequently written by Mr. Jefferson to Mr. Morris, the American Minister in France.

The Judges of the Supreme Court having declined to answer the queries put by the Executive, as out of the sphere of their judicial duties, which were limited to cases of legal controversy, it was decided in the Cabinet to lay down the rules to be observed towards the vessels of the belligerents in the ports of the United States; which rules were carefully framed in accordance with the received doctrines of international law relative to the duties of neutrals, slightly modified by the treaty between the United States and France.

The popular sentiment in favor of France continued to gain strength in America by the new aliment which it was constantly receiving from that focus of political zeal, and by the fervid appeals of citizen Genet, encouraged as they were by those presses which most had the favor and confidence of the people. Among other complaints against the administration, the proclamation of neutrality, which had obtained the sanction of Jefferson

and Randolph, began now to be openly assailed, not only as manifesting an unfriendly disposition towards France, but as transcending the constitutional powers of the Executive.

Mr. Hamilton, in a series of papers in Fenno's journal, maintained the wisdom and legality of the proclamation. To these papers, which were signed Pacificus, Mr. Madison replied in another series, in Freneau's paper, under the signature of Helvidius. Their pens, which five or six years before had so cordially co-operated in recommending the new Constitution of the United States to the adoption of the American people, were now in conflict on the construction of that instrument; and these eminent statesmen never afterwards concurred on any great question, except perhaps in giving the preference to Jefferson over Aaron Burr, for the Presidency.

Mr. Madison confined his objections to the constitutionality of the proclamation; and now that the passions which animated the parties at the time have almost passed away, we may venture to assert that though the powers assumed by the President of giving his opinion on a point which it belonged exclusively to Congress to decide, could lead to no serious mischief, but, on the contrary, that its admonition to the American citizen to observe the duties of neutrality might be seasonable and useful, it will scarcely be disputed by jurists that Mr. Madison's exposition of this part of the Constitution is sounder than those of his ingenious adversary, and more in accordance with the true theory of this government.

Mr. Genet continued to assail the administration with applications and complaints — applications as inadmissible as the complaints were unfounded. He had, from the first, in his correspondence with the Secretary of

State, insisted on the right of France to arm vessels in the American ports, by the twenty-second article of the treaty, and "under the general sense and usage of mankind," notwithstanding "the diplomatic subtleties and aphorisms of Vattel," on no better ground than that such right of arming had been positively forbidden to other nations, while it had been neither forbidden nor granted to France. He insisted that the United States should vindicate their rights, according to his construction of the law of nations, and to fail in this was to be faithless to France. Not content with thus indecorously remonstrating against the conduct of the administration, he assailed their motives, and that too in a tone of undisguised insolence and contumacy.

Mr. Jefferson's part of the correspondence was at once temperate, dignified, and firm. At length the government, finding no other course consistent with its self-respect, insisted on the Minister's recall; but to avoid offence to France, a full detail of his conduct here, and a justification of the course pursued by the United States, were sent to their Minister, Mr. Gouverneur Morris.

Genet was accordingly ordered home, but before he left the United States, the Gironde party, to which he belonged, had been overthrown; and he deemed it prudent to remain in the United States, where he soon afterwards married, and in unobtrusive quiet passed the remainder of his life.

Among other instances of this Minister's mischievous intermeddling was his intrigue with some malcontents in Kentucky to take possession of New Orleans. The plan seems to have been formed in August, and in November he despatched four agents to that State to enlist men, and to take measures for the projected expedition. George Rogers Clarke, who distinguished himself in the Revolu-



tion, issued proposals for raising troops, on which occasion he styled himself Major-General of the armies of France, and Commander-in-chief of the revolutionary legions on the Mississippi. The project was defeated by the timely interposition of the General government, which, by proclamation, warned the people of the West of the scheme, and gave orders to General Wayne to suppress it even by force, if necessary.

Before the recall of Genet had been decided on, the Cabinet differed about the propriety of making an appeal to the American people, by laying before them the whole of this Minister's extraordinary and offensive correspondence with the State department. Mr. Hamilton was decidedly in favor of the appeal. Messrs. Jefferson and Randolph opposed it, as more likely to do harm than good, by making both Genet and his supporters more violent, and by causing the President, who had hitherto preserved a character for impartiality, to be regarded as the head of a party; and because Genet would be sure to make a similar appeal; in which case the affair would assume the character of a contest between the President and a foreign Minister. The President finding his Cabinet thus divided, suspended his decision, or rather decided on not making the appeal.

It was then proposed to send away Genet, but this being opposed by Randolph, the President suspended the decision of that question also. He, however, after some days, himself proposed it, but it was then objected to by Mr. Jefferson, as a measure generally leading to war; and because the United States would thereby make an enemy of the only nation which was sincerely their friend: that it was unnecessary, as they might hourly look for his recall; and lastly, that Genet might refuse to obey the order. No decision was made on this ques-

tion, in accordance with what seems to have been General Washington's uniform course when his Cabinet was equally divided.

While the Government was thus harassed and insulted by the rashness and presumption of the Minister from France, the course of events then passing in Europe was tending to involve them in a dispute with Great Britain.

In consequence of the failure of the harvest of 1792 in a great part of France, she required large importations of grain from other countries, and it being known that supplies could be obtained from the United States in greater abundance and on better terms than from any other country, both by reason of their numerous shipping and of their neutral character, Great Britain determined to use her naval power to prevent those supplies. She accordingly, in June, 1793, gave instructions to her armed ships to detain all vessels bound to France with provisions, and to send them into the most convenient port, that their cargoes might be purchased by the British Government: they were also required to seize all ships attempting to enter ports declared to be blockaded, except those of Denmark and Sweden, on their first attempt; and that all vessels which appeared to be bound to such ports should be admonished to proceed to other ports; but if they continued their course with their first view, they should be condemned, as also all vessels which had sailed for a blockaded port, after the declaration of blockade had been known in the country from which they had sailed.

Mr. Jefferson, in September, wrote to Mr. Pinckney, the American Minister in London, to urge a revocation of this order in council, as contrary to the law of nations, and to require indemnification for the losses sustained under it by American citizens.

In a few days Mr. Hammond sent to Mr. Jefferson a copy of those instructions, which he defended as consistent with the law of nations; provisions being considered contraband, when the privation of such supplies is necessary to reduce a nation to reasonable terms of peace — which he argued were the present circumstances of France.

To this letter Mr. Jefferson replied that the principle which declares provisions to be contraband in the case stated, or in any case but that of a place *actually* blockaded, was entirely new. But that as the American Minister in London had been instructed to make a representation of the subject, he declined a further discussion of it. In the correspondence relative to it between Mr. Pinckney and Lord Grenville, the same ground was taken by the Ministers of the two countries respectively as had been taken by their colleagues in the United States.

The practice, by British men-of-war, of impressing men from American ships, on the ground that they were British subjects, and consequently, according to the British doctrine, incapable of putting away their natural allegiance, was a further cause of irritation and of diplomatic remonstrance.

The American Government endeavored at first to resist the claim, but finding that course hopeless, they sought to subject the alleged British right to regulation, so that the citizens of the United States should not be liable to its abuse. Mr. Jefferson decidedly objected to certificates of citizenship, which, as the necessary means of protection, were degrading, and would be unavailing from the reckless character of seamen, who would want the precaution to provide them, or having provided them, would always be in danger of losing them. He further suggested



some cautionary provisions to prevent American vessels from becoming the ready asylums for British seamen.

The British Government, among other justifications for their order in council of June, 1793, relied on the example of the National Convention of France, which, by a decree of the ninth of May, 1793, had authorised their armed vessels to seize all ships laden with provisions bound to an enemy's post, or which had on board merchandize belonging to an enemy—declaring such merchandize lawful prize; but the provisions were to be paid for, and neutral vessels were to receive their stipulated freight, and to be indemnified for detention.

This decree having been complained of by the American Minister, as contrary to the treaty with the United States, the Convention, on the twenty-third of May, decreed that the United States were not comprehended in the decree of the ninth; but this last decree was revoked five days later, and on a second remonstrance from Mr. Morris, it was renewed on the first of July. But it was again revoked on the twenty-seventh of that month, and the American vessels ceased to be excepted from the decree of the ninth of May.

It deserves to be remarked that this decree of the National Convention was not mentioned by Lord Grenville in his correspondence with Mr. Pinckney, nor by Mr. Hammond in his communication of the British order in council, nor is it noticed by the journals of the day, or in the debates of Parliament. The first mention of it by a diplomatic agent of Great Britain is by Mr. Hammond, in his letter to Mr. Randolph, Secretary of State, dated the eleventh of April, 1794, and that merely in answer to a remark quoted by him from Mr. Pinckney's memorial to the British Ministry, that France would make use of the acquiescence of the United States in the

British orders "as a pretext for the violation of neutrality," and that she might derive from those orders "the right to pursue a similar course. Mr. Hammond refers then to the fact that the French decree of a like character was previous to the British order.

One reason of this remarkable forbearance to justify the provision order complained of by the example of their enemy—a practice subsequently so familiar to both nations—might have been that it was desirable to Great Britain to defend a measure which would so greatly enlarge the power and efficiency of her navy, on the broad and permanent ground of international law rather than that of retaliating a French decree, which might be revoked at any time, and had in fact been revoked twice in three months. Another reason might have been that the French Government could, with some reason, have denied that they had thus taken the lead in this course against neutrals, since Great Britain and Russia, in their treaty of the twenty-fifth of March, 1793, had sanctioned a similar invasion of neutral rights.<sup>1</sup>

These instructions to the armed vessels of Great Britain, certain to be so vexatious and injurious to American commerce, excited much feeling in the United States; brought a great accession of strength to the party who wished the country to make common cause with France; and added much to the difficulties of the administration, bent as it was on keeping the country in a state of peace and neutrality.

In the consultation of the Cabinet, according to custom, on the subject of the President's opening speech to Congress, the members showed their wonted discordance of views. On the subject of the proclamation of neutrality, Mr. Hamilton maintained that the President had

<sup>1</sup> I. Debrett's State Papers.

a right to declare his opinion to his fellow-citizens and to the world, that it was neither our duty nor interest to join in the war; that the proclamation was regarded by other nations as a declaration of neutrality, future, as well as past; and, to declare otherwise now, would be a deception on them. He therefore was for using such expressions as would neither affirm the right nor surrender it.

Messrs. Jefferson and Randolph denied the President's right to make any declaration as to the future, concerning war or peace. Mr. Jefferson went a step further, and denied that the President had any right to declare that neutrality would be our interest; and policy recommended that this question should be left doubtful, that other nations might "come and bid for our neutrality."

The President himself disclaimed any intention of looking beyond the present; and he justified the use of the term "neutrality" in his answers to public addresses on the subject, on the ground that the term had not been objected to in his Cabinet.

On a renewal of the discussion, it was maintained by Mr. Hamilton that the President and Senate might, under the treaty-making power, make a treaty of neutrality, which would take from Congress the right to declare war; and that, in this way, they might exercise any power whatever, even those exclusively assigned to Congress.

Mr. Jefferson, on the other hand, insisted that "in giving to the President and Senate the power to make treaties, the Constitution meant only to authorise them to carry into effect, by way of treaty, any powers they might constitutionally exercise. In his private notes,<sup>1</sup> he remarks: "I was sensible of the weak points in this

<sup>1</sup> Since published under the name of *Ana*.



position, but there were still weaker in the other hypothesis."

Mr. Jefferson was also doubtful about the power of Congress to establish a military academy, but all the other members of the Cabinet being in favor of it, the President recommended to Congress such an establishment. To it the country has been indebted for many of its best officers, and, without it, must either have remained deficient in the requisite military science, or have been dependent for it on foreign countries.

Congress met on the second day of December, and on the following day the President addressed both Houses assembled in the Senate chamber. After making acknowledgments for his re-election, but still declaring his preference for a retired life, he mentioned his proclamation of neutrality as an admonition to our citizens against contraband trade, or, hostile acts against belligerents; stated the rules he had prescribed to himself for the observance of treaties and for maintaining the privileges of the United States, and recommended that the country should be put in a state of complete defence, that we might secure the fulfilment of the duties of other nations towards us, while we fulfilled ours towards them. He reminds them that appeals to arms are sometimes inevitable, and that the country cannot support the rank to which it is entitled, with the reputation of weakness. He therefore recommends an increase in the supply of arms, and an improvement in the militia system. He is also in favor of a gradual redemption of the public debt, and suggests that some addition to the revenue will be required. He repeats his former humane suggestions relative to the Indians.

Two days later he sent to both Houses a message accompanied with numerous documents, concerning the

foreign relations of the United States, especially with France and England.

In this message he mentioned the general manifestations of friendly feelings by the public authorities in France towards the United States, and the advantages she had given to their commerce and navigation; but that she had nevertheless passed a decree concerning vessels laden with provisions, and enemy's goods found in the vessel of a friend, which were inconsistent with her treaty between France and the United States, and though at first revoked as to this country, it is said to have been subsequently extended to it.

The course of Genet, and its tendency to involve us in war, was decidedly, but calmly reprehended. The British instructions of June to their armed vessels were then noticed, as well as the measures taken thereon by the Executive, and also the correspondence relative to the non-execution of some of the articles of the treaty of peace. The affair of the United States with Spain requiring a confidential communication, he said, would be the subject of a future message.

The President's speech had been drawn by the Secretary of State, but had encountered much opposition from Mr. Hamilton, who succeeded in making many alterations in its terms, and who averred that the very striking contrast between the language used towards France and that towards Great Britain "amounted to a declaration of war." He insisted that Great Britain had shown to the United States more favor than France, and he regarded the partial disposition of the people of this country towards France as a serious calamity. He also wished the communications to Congress on the subject of complaints still pending, to be secret. The President, however, decided that the whole should be communicated without any reser-

vation; though all the members of the Cabinet, except Mr. Jefferson, were against publishing the documents relative to the provision order in council—the President, on this occasion, departing from his ordinary rule, and deciding in favor of one of his Cabinet against three.

The answers of the two Houses of Congress on the sixth, were in the same respectful and affectionate tone as on all previous occasions.

On the same day, in compliance with a resolution of the House of Representatives passed as early as the twenty-third of February, 1791, the Secretary of State made a report on the commercial privileges granted by foreign countries to the United States, and the commercial restrictions imposed.

After exhibiting the amount of annual exports of the staple products of the United States to the several maritime nations of Europe; the imports from each; and the amount of American tonnage employed in their commerce with each, the Secretary considers how their several restrictions “may be best removed, modified, or counteracted.”

Of the two feasible modes, by treaty and by our own legislation, he deems the first the more eligible; but where that mode is impracticable, he recommends a resort to legislation. He regards the protection to be thus afforded to *commerce*, as still more important to their *navigation*, which is so essential to the national defence. For the attainment of these great objects, he suggests a series of legislative measures which should retaliate on other nations the precise restrictions imposed by them on American commerce or navigation.

Soon after this report was communicated, Mr. Jefferson resigned his office, and retired to his seat in the interior of Virginia, where he continued about three years,



a silent and secluded, if not an indifferent spectator of public measures ; after which he was, for twelve years, called by the suffrages of his fellow-citizens to fill the first or the second post under their laws. Being now known to his countrymen as the vindicator of the nation's rights against the recent aggressions of Great Britain, he had recommended himself more strongly than ever to the favor of the Republican and Anti-Anglican party ; and as he had also ably maintained the nation's dignity as well as neutrality against the insolence and intrigues of Genet, he had almost redeemed himself with the Federal and Anti-Gallican party. To the justness and patriotism of his views, and the ability with which he had sustained them, one-half the nation, in one case or the other, gave a ready assent. Though he might have had warmer friends subsequently, he never had so few enemies as at this period.

He was succeeded as Secretary of State by Mr. Randolph, the Attorney-General, whose place was filled first by Mr. Bradford of Pennsylvania ; but he dying soon after his appointment, Mr. Charles Lee, of Virginia, was appointed to the office.

The confidential message respecting Spanish affairs was sent to Congress on the twenty-fourth of February, 1794. Besides the subject of commerce, common to all the maritime nations of Europe, the questions of boundary and of the navigation of the Mississippi remained to be adjusted with the United States.

From the beginning of the assertion of independence by the British-American colonies, Spain seems to have felt an instinctive dread of the influence of their example on her own colonies ; to have aimed at narrowing the boundaries of the new States, and at giving as few facilities as possible to their commerce, unless she could effect

a separation of the Western from the Atlantic States; in which case she was disposed to be liberal in her concessions to the people of the West.

One of the means of annoyance which she was supposed to have resorted to, was to excite the hostilities of the Southern tribes of Indians. The Minister from the United States to Spain was specially instructed to prevent interpositions of this character on both sides. Spain also entertained, or affected to entertain, similar suspicions of the United States, and made a remonstrance on the subject in a haughty and threatening tone. This course seeming to indicate a determined hostility on the part of Spain, a messenger was despatched to Madrid to demand such explanations as would leave no doubt of her real purpose; and, in the meanwhile, her Minister to the United States endeavored to soften the feelings which the language of his Court had clearly produced.

The House having resolved itself into a Committee of the Whole on the commercial report of the Secretary of State, Mr. Madison laid on the table a series of resolutions framed in conformity with the Secretary's report.

These resolutions proposed to lay an additional duty on the manufactures and the tonnage of vessels of nations having no commercial treaty with the United States; and at the same time to reduce the duties on the tonnage of vessels belonging to nations having such treaty; and they proposed to retaliate the restrictions imposed on American navigation.

The debate on these resolutions was opened by Mr. Smith, of South Carolina. He proposed to discuss the subject purely as a commercial one, dismissing all questions respecting Indians, Algerines, and the Western ports. He said the object of Mr. Jefferson's report had been to exhibit a contrast between France and Great

Britain, but that he should submit an accurate statement of facts, which being compared with the report, would enable the House to decide on the correctness of its inferences.

Considering the late relaxations of the French republic in their commercial regulations to have been produced by circumstances that were merely temporary, he should make his comparison of the trade which the United States had with the two nations as it stood before the recent revolution in France.

According to a table prepared with care, he showed that, except in fish oil, the commerce of the United States had not been more favored by France than by England, and that, in many articles, it had been more encouraged by the latter.

Flour, for example, was most favored by Great Britain. In 1786 and 1788, the export of flour to the British possessions exceeded that to France and her colonies more than twenty to one.

In tobacco, the British regulations were more favorable than the French. By a lower duty on the tobacco of the United States, that product had a monopoly of the British market. It pays no duty, indeed, in France, as it does in England, but this duty falls on the British consumer. Its importation is prohibited in the colonies of France, and in Europe she puts it on the same footing as the tobacco of other countries.

In rice, there appears to have been no decided advantage either way.

In wood, the advantage was decidedly in favor of the British regulations. In both countries the articles were free; but in Great Britain the wood of other countries was subject to a duty from which the wood of the United



States was exempt; while, in France, there was no discrimination.

Salted fish and fish oil were the only articles in which the regulations of France were more advantageous than those of Great Britain. The latter nation being able to supply herself, admitted their importation, subject to a small duty, while she gave a bounty on those articles taken by her own subjects.

Pot and pearl ashes, naval stores, and indigo, were more favored in Great Britain than in France.

Live cattle and flaxseed were on an equal footing in both countries.

A consequence of this greater encouragement to the trade with Great Britain was, that, in 1789, the exports to that country were nearly double those to France, and the average of 1790, 1791, and 1792, gave an annual excess of the same character of three millions seven hundred and fifty-two thousand dollars.

But to do away with the effects of this excess of exports, the Secretary had relied on the fact that a great part of the commodities received by Great Britain lay under the disadvantages of double freight and charges.

The fact of re-exportation, which formerly took place, he said, might then be questioned, but supposing it to exist to the extent of one-third of the commodities received, even then, her consumption would exceed that of France. But were the fact otherwise, it might not always be to the interest of the United States to carry their commodities to the highest market, if their vessels could not there obtain other commodities in exchange, and a freight back. In this state of things it might be more profitable to have an intermediate market, not subject to the before-mentioned disadvantages. That this is the free course of trade is a proof that it is beneficial.

The great amount of imports from Great Britain, on which the Secretary lays stress, is a proof of the utility of that trade. It must be owing to the better quality and greater cheapness of her commodities. She was also able to give an extensive credit, which is an immense advantage to a young and growing country, like the United States. The necessity of laying a duty on British manufactures, in order to find a sale for those of other countries, is a proof that the first were cheaper, or better suited to the American market.

He confessed that there might be more expediency in the proposed policy, if the object were to encourage domestic manufactures; but its avowed object is to turn the course of trade from one foreign nation to another.

He admitted the disadvantages of depending on a single nation for the supply of articles of general consumption, but urged that this dependence was not to be shaken off by a sacrifice of their best interests; that the lessening the imports of British manufactures by high duties to counterbalance the disadvantages under which other nations lay, was to pay a bounty out of our own pockets, not to encourage our own manufactures, but those of the nations we thus favored.

On the subject of navigation, he maintained that the trade of the United States was as free in American as in British vessels, except as to some trifling port charges. France merely put the American vessels on the footing of the most favored nations. Thus far, American navigation was most favored by Great Britain. In the West Indies, American vessels are excluded by Great Britain, but by France, vessels of sixty tons are admitted from all countries. In this respect, the French regulations are the most favorable.

The Secretary had stated the American tonnage

employed in the trade with France at one hundred and sixteen thousand four hundred and ten tons; while that employed in the trade with Great Britain was only forty-three thousand five hundred and eighty tons: but he had not taken into account that four voyages are made in the year to the West Indies, while only two are made to Europe: that, to make the comparison fairly, a call had been made for the tonnage of the vessels actually employed in the trade with the two countries, and it was found to be to France eighty thousand five hundred and eighty-two tons, and to Great Britain sixty-six thousand five hundred and eighty-two tons. On the whole, that the commercial system of Great Britain was friendly, and made more discriminations than France in favor of the United States.

The defence of the resolutions by their mover, Mr. Madison, Messrs. Findley, Nicholas, Clarke, Smiley, Moore, and Giles, was in substance as follows:

That most of the injuries inflicted by Great Britain on the United States proceeding from her efforts to extend her commerce, could be remedied by appealing to her commercial interests: that the Indian war against the United States, and the attack of the Algerines, must be referred to these views, or she must be convicted of gratuitous cruelty. The propositions submitted were likely to answer their intended purpose. The speakers professed themselves friendly to the principles of free trade, but urged that to this rule there were exceptions. The effect of the navigation laws of Great Britain was a striking instance of such exception.

Another exception was when, by duties on the commodities of another country, we could not only strengthen our means of rivalry, but draw from Great Britain the hands employed in producing those commodities.



The practical effect of leaving commerce to regulate itself is in fact to subject it to the regulations of other nations. The best way to derive advantage from trade is to leave it entirely free; and, next to that, is to make the restrictions reciprocal. It was the want of this reciprocity, and of adequate efforts to provide a remedy for it, which first suggested the present Constitution; and to this remedy the people confidently looked.

The injurious effect of British restrictions on American shipping was shown by comparing what was employed in our trade with them and with other countries. Thus, our shipping in the trade with other nations compared with theirs, in the same trade, varied from five to twenty-six to one; but in our trade with Great Britain it was only as one to three. We should, moreover, be the greater gainers by carrying our own products, because they were so bulky in proportion to their value. They relied on the balance of trade being against the United States, in its commerce with Great Britain, and maintained that it was a disadvantage to depend upon a single nation for articles of general consumption.

They urged the improbability of retaliation by Great Britain, considering the value and importance of the American trade to her: that the credit afforded to American merchants was no real benefit, but was productive of mischief in augmenting luxurious consumption, discouraging domestic manufactures, and increasing British influence: and lastly, the conduct of Great Britain in stimulating the hostilities both of the Algerines and Indians was referred to, and contrasted with the conduct of France, which had always been friendly and generous. They insisted that three hundred thousand British manufacturers would be thrown out of employment by with-

drawing the trade between that country and the United States.

Besides the arguments relative to the interests of commerce, political considerations were pressed into the debate by one party, and probably entered into the feelings of both parties. The public debt was repeatedly adverted to, sometimes to show its mischiefs, by the heavy taxes to which it gave rise, by the dependence on other nations which it produced; and sometimes as explaining the difference in the language now held towards Great Britain, and that held when America declared her independence. The national character was said to depend on the passage of the resolutions.

These arguments were replied to by Messrs. Smith of Maryland, Goodhue, Lee, Dexter, Ames, Dayton, Hartley, Tracey, Hillhouse, Forest, Fitzsimmons, and Foster.

They insisted that if the United States had suffered wrongs from Great Britain, this was not the mode of redressing them. When that subject came properly before them, they would not be slow to vindicate the rights of the country. The mode proposed, they said, was unworthy the dignity of the American character.

If the resolutions were adopted, it should be only because they would advance the interests of the United States, not that they would injure one foreign nation, and benefit another. As there was no friendship in trade, neither ought there to be any enmity.

But the objects of the resolutions avowed by their friends, were to encourage the navigation and commerce of the United States. Let them then be examined under this aspect. It had been urged that the American tonnage ought to exceed the foreign tonnage as the exports of the United States exceed in bulk their imports from other countries. This was denied. Great Britain carries

for other countries because of her fitness for navigation, and of her redundant population : but the interests of the United States, possessing a fertile and unsettled country, would not be promoted by drawing off her citizens from agriculture to navigation. Enough had already been done to encourage navigation, and its consequent growth had been sufficiently rapid. It promised to give that share in the transport of their commodities which their interests required.

If, however, additional encouragement was to be given, then they urged that the duty on all foreign vessels should be increased, and the particular restrictions imposed by any nation on American vessels be precisely retaliated. The discriminations now proposed would merely encourage the shipping of one foreign nation at the expense of that of another.

But further : the United States had not yet sufficient shipping for the transportation of their produce. It must either be transported in foreign ships, or not transported at all. By and by it will be otherwise, but, in the meanwhile, for the Legislature to make it the interest of American citizens to employ French vessels in preference to English, by discriminations that would enhance the freight, would be a bounty to the shipping of France, which would be paid by American agriculture.

The navigation act of Great Britain, so much objected to, they said, was not directed against the United States more than against other nations. It was a long settled policy to which she was so much attached that she would probably rather forego the sale of her manufactures in the United States than abandon it. The right way, moreover, of opposing this system would be by correspondent restrictions, to which many would agree, who were opposed to the resolutions.



Nor would the manufactures of the United States be encouraged merely by shifting commerce from one channel to another. This could be done only by laying protecting duties or prohibitions on such articles as were or could be manufactured at home.

If Great Britain could furnish the commodities wanted by the United States, at a cheaper rate than other countries, a prohibitory duty on such commodities would force our citizens to resort to worse and to dearer markets. The country was not able, of itself, to supply the manufactures it required. Until it was, it would be unwise to prohibit their importation.

The only effect, then, of the proposed policy would be to force trade from one nation to another. This is, however, a delicate and difficult office. Though embarrassed for a while, commerce will eventually overcome these artificial obstacles, and regulate itself. That its present course is natural is proved by the acknowledged necessity of using violent means to change it.

They urged that it was inconsistent to complain of British restrictions on American commerce, and at the same time that Great Britain obtained more than her fair proportion of it. Its large amount showed that it was not heavily burdened. If she purchased more than she consumed, it must be because it was the interest of America to sell to her the excess. She could purchase such excess only by offering better terms than any other nation.

If the importation of British manufactures was prohibited, and America obtained her supplies from other countries, accustomed to manufacture only for themselves, it would create a demand in those countries for British fabrics, and thus we should still encourage the consumption of those manufactures, though at an increased cost:

and that the present time, when all is in confusion in France, was particularly unfavorable to the experiment of obtaining manufactures from her.

“We lay a stress,” they remark, “on the importance and peculiar value of our products—many of them being the necessities of life, which we seem to suppose that other nations cannot dispense with; yet we complain of the British prohibition of our grain except when its price is high. But the products of America are also the products of other soils, and may of course be supplied by other countries. Indeed, some of our products, which now find a market abroad, might, on a fair competition, be excluded. In this way formidable rivals to the American producer may arise, and be continued longer than these resolutions.

The credit given by British merchants was maintained to be of solid benefit to the United States, deficient as they were in commercial capital. But it was denied that any political influence resulted from it, in proof of which it was urged that although large debts were due from Virginia, her Representatives come forward with spirit to oppose Great Britain, while the Representatives from the East, where the people are not in debt to the English merchants, are opposed to these resolutions.

It was said to exhibit a mortifying spectacle, that the Legislature of the Union was deliberating not concerning the welfare of their own citizens, but upon the relative circumstances of two European nations, and upon the question which of them has the best form of government, or feels the most affection for us, and on that course of measures which we should adopt as most likely to humble the one, and exalt the other.

If the conduct of Great Britain was as hostile as was represented, the adoption of commercial regulations, of a

navigation act, and the whole parade of shutting ports and freeing trade from its shackles, was not a fit remedy for the evil.

"After continued negotiation," said one of the speakers,<sup>1</sup> "should an obstinate denial of justice be still experienced, I would teach the world that the United States are no less prompt in commanding justice to be done them, than they have been patient and industrious in attempting to obtain it by fair and peaceable means. Away with your milk and water regulations. If the subject be considered merely as a commercial one, the resolutions go too far, and attempt too much; but as a hostile measure, they fall infinitely short of the mark, and do too little."

It may seem strange that both the Northern and Southern States should, on this question of protecting navigation and manufactures, have maintained principles directly opposite to those which they have subsequently supported, as well as opposite to their respective interests, and when those interests were as distinctly seen as at any time since: but a main object of the resolutions being to retaliate on Great Britain and to benefit France, on which points the two great divisions of the country were directly opposed and were equally warm, they were both, in support of their *feelings* of preference for one nation and hostility to the other, willing to make a sacrifice of their *interests*. The South was content to pay dearer for manufactures, as well as for the carriage of their produce to foreign markets, and the North to forego the benefits to their navigation and rising manufactures which would result from the exclusion of British competition. Pecuniary interests often present but a feeble

<sup>1</sup> Mr. Tracy, of Connecticut.



resistance to popular sympathy, and none at all to popular antipathy.

The resentment against Great Britain was much increased during this debate, by the intelligence of the new order in council of the sixth of November, which has been mentioned, and which was not promulgated in England until some weeks after it issued. Under this order many American vessels were seized, sent into British ports, and their cargoes condemned in the vice-admiralty courts. This order, which inflamed the feelings of the Republican or Anti-Anglican party to the highest pitch, was also not without its effect on their opponents. They regarded it as evidence that Great Britain had decided on war with the United States, and they were, moreover, with all their good-will towards Great Britain in her present contest with France, not disposed to submit to such a flagrant violation of neutral rights. They accordingly set about preparing for the unwelcome result which seemed so probable.

This debate was protracted to the third of February, when the question having been taken on the first resolution, it was carried by a majority of five. The subject was then postponed to the first Monday in March.

The policy of establishing a permanent navy was the next important subject of discussion in the House of Representatives.

Early in January, the Naval Committee had recommended this policy. The force proposed was six frigates — four of forty-four guns, and two of thirty-six guns. The Algerines, before January, were known to have taken eleven American vessels, and to have made captives of more than one hundred American citizens.

This measure was opposed by the Republican party as

zealously and unanimously as Madison's resolutions had been opposed by the Federalists.

As a means of protecting commerce, it was pronounced to be altogether insufficient. The proposed force was inadequate, and it could not be immediately used. Besides, the object could be effected by other means less expensive. A peace with Algiers might be procured by money, which nations having a much stronger navy than we proposed, had not hesitated to pay. Another mode suggested was to purchase the protection of foreign powers. This would be less expensive than a navy, and its effect would be immediate.

But the measure, it was said, might be regarded as laying the foundation for a permanent navy. This policy was utterly inconsistent with the payment of the public debt. To the great extent, of the British navy was ascribed the oppressions under which the English people groaned. By a like cause the French monarchy had been overthrown, and that of Great Britain threatened. It was part of the system of governing by means of debts, which was pronounced the most refined system of tyranny. It had succeeded to the old system of feudal tenures. Its purpose was to devise objects of expense, and to draw as much money as possible from the pockets of the people. Another objection to a navy was, it would prove a hostage for their good behavior, and would thus rather increase than lessen their dependence on other countries.

In reply, it was insisted that no peace could be purchased of the Algerines unless the offer was accompanied by some manifestation of naval force. Without this, they had shown that they would sell no peace at a price which we should be willing to give. They would be more likely to take this ground now when her cruisers were no longer confined by a Portuguese squadron, and

when they saw that we could not incur the expense of a small armament. They said they were willing to negotiate for a peace with Algiers by purchasing it, but that some naval force was necessary to ensure success to the negotiation.

To seek the protection of other nations would be dishonorable. Nor was this all. If the nations applied to are at peace with Algiers, they could not be expected to go to war for any indemnity we could offer. If already at war, they would, for their own sakes, check the depredations of their enemies. Such a defence, too, would be precarious, as our protectors might purchase peace at any time, and leave our commerce defenceless. With a navy of their own, the United States might co-operate with a foreign power to great advantage.

From the information obtained, the force proposed was sufficient. But if not thought to be so, why, they asked, was not an increase of force recommended?

As to the expense of a navy, the saving in insurance, ships, and cargoes, and in the ransom of seamen, was more than enough to outweigh it. But the slavery of our citizens, and the national disgrace it involves, are not to be estimated. Who, after learning the sufferings of the captives, can sit down to cold calculations of the cost of affording them relief?

In answer to the objections to a permanent navy, it was urged that the bill provided for the discontinuance of the armament when peace should be concluded with Algiers; and further, that the United States were peculiarly fitted for a navy. They abounded in all the requisite materials, and that the dispositions and habits of a large portion of their citizens made the protection afforded by a navy necessary. It was strange that those who looked to the extension of American navigation as a



means of national defence, and were even willing to engage in a commercial war with Great Britain on this account, should be so opposed to a naval defence under any circumstances.

The resolution was carried by a majority of only two votes; but in its progress it gained strength, and finally passed by eleven votes. There was, however, an appropriation of a million of dollars to purchase peace with Algiers, and in the event of success in that purpose, the naval armament was to be suspended.

This species of national defence, though then and subsequently so earnestly opposed by the Republican or Democratic party, is decidedly the cheapest and safest, and has since fought its way into popularity with the American people.

On the twelfth of March, Mr. Sedgwick, of Massachusetts, a Federalist, moved to raise a military force, and to lay an embargo, to last forty days, at the discretion of the President.

Before there was any decision concerning the embargo, Mr. Madison's resolutions were again taken up. Mr. Nicholas, of Virginia, moved an amendment by which the manufactures of Great Britain alone were to be subjected to an increased rate of duties. A decision was postponed by a small majority, on the ground of the increased probability of war, and the importance of united counsels in that event. The embargo, after having been negatived by a majority of two votes, was subsequently laid, to continue for thirty days.

A bill was also passed for fortifying certain ports and harbors, and a plan was reported for organizing eighty thousand militia; as well as for raising a corps of artilleryists and engineers, and a provisional army of twenty-five thousand men. The belief that Great Britain also

expected war with the United States was confirmed by the speech of the Governor of Canada, Lord Dorchester, to an Assembly of deputies from numerous Indian tribes, in which he asserted the probability of a war with the United States.<sup>1</sup> It further appeared that Governor Simcoe had built a fort at the Rapids of the Maumee, within the limits of the United States.

On the twenty-seventh of March, Mr. Dayton, of New Jersey, offered a resolution for sequestering all debts due to British subjects, as a fund to indemnify citizens of the United States for the unlawful depredations of British cruisers.

This resolution caused a vehement explosion of resentment against Great Britain on the part of the Republicans; but before any vote was taken on the question, Mr. Clarke, of New Jersey, offered a resolution to prohibit all intercourse with Great Britain, until she made full compensation to the citizens of the United States for injuries done by her armed vessels, and until the Western posts were delivered up.

While these subjects were pending, the President sent a message to Congress informing it that, by a despatch from Mr. Pinckney, American Minister at London, the order in council of the sixth of November preceding had been revoked in January; and in lieu of it, that another had been issued directing the British cruisers to bring in those vessels which were laden with the produce of French colonies, and were on a voyage from those colonies to Europe. He also stated that the Courts of Vice-

<sup>1</sup> Judge Marshall says that the account of this speech was not authentic. In this he was mistaken. It is reported on authority in the Annual Register for 1795, page 251. Its authenticity is expressly admitted by Hammond. — II. State Papers, page 60. See correspondence of Randolph and Hammond, II. State Papers, page 59.

admiralty had given to the November order an interpretation that had not been intended. The objects of that order had been to prevent the abuses which might take place in consequence of the whole of the St. Domingo fleet having gone to the United States; and also on account of the meditated attacks upon the French West India Islands. It was expected that no vessel would be condemned under that order which would not have been liable to condemnation without it.<sup>1</sup>

This intelligence restored the Federal party to their original feelings in favor of Great Britain. They thenceforth opposed all measures of an irritating tendency—acquiescing, however, in those which aimed to put the country in a state of defence.

Their Republican opponents did not press a decision of their scheme of commercial retaliation, from the hope, probably, that the British Ministry would forbear their maritime aggressions when they saw that war would be the certain alternative. They accordingly made no opposition to the appointment of a special envoy, as was urged by the friends of the administration.

A mission to England was then determined on, and Mr. Jay, the Chief Justice of the Supreme Court, was selected for that appointment. This selection, however, furnished a new theme of complaint on the part of the opposition; not merely because it would have a tendency to make politicians of judges—a class of men in whom calm, unbiassed tempers are of the first importance, but because also it was against the spirit of the Constitution, which aimed to make them independent of the other departments, and this object would be but half obtained, if, while they were exempted from all fear of the loss or diminution of their salaries, they were left accessible to

<sup>1</sup> II. State Papers, page 7.



the influence of Executive favor, and the hope of lucrative appointments. But each party seemed disposed to await the result of the negotiation before it renewed the contest. The non-intercourse bill, however, passed the House of Representatives, but was lost in the Senate by the casting vote of the Vice-President.

At this moment, when the hostility of the American people to Great Britain had been aggravated by their resentment of her recent wrongs on the ocean, their enthusiasm in favor of France and her revolution was at its height. Her wildest excesses, her horrible butcheries, without discrimination of age or sex, her puerile innovations—all found apologists, admirers, and some of them imitators in the United States. In this state of the public mind towards these nations, it seemed improbable that the country could be prevented from rushing headlong into a war with a nation which was its best customer in peace, and most able to injure it in war; and when it must necessarily lose the large profits it still derived from commerce, lessened even as those profits were by the abuses of the British naval power.

The party who, being unfriendly to France and her revolution, clearly saw the ruinous consequences of a war with Great Britain, added to the real evils of such a war the imaginary one that France would obtain an ascendancy in this country, and here re-enact the same bloody enormities which an ignorant and infuriated rabble had there perpetrated against their former masters.

A grand jury in Philadelphia having refused to find a bill of indictment against Duplaine, the French consul, for forcibly rescuing an armed vessel which had been seized for violating the duties of belligerents, according to the rules which had been prescribed by the Executive, and the subject having been mentioned by the Pre-

sident in the Senate, a bill was brought in to prevent certain crimes against the United States. It punished particular acts which were inconsistent with the neutrality of the country, with fine and imprisonment; and it prohibited the condemnation and sale of prizes made from those nations with whom they were at peace. This bill would have been defeated, if repeated motions, made with that view, had not been lost by the vote of the Vice-President.

The Republican party had a majority in the Senate of a single member, but the seat of Mr. Gallatin from Pennsylvania, one of that majority, having been contested, and set aside on the ground that he had not been a citizen as long as the Constitution required, the two parties were exactly balanced.

Inquiries were again instituted at this session respecting the Treasury department, with the view of implicating the Secretary; but these resulted in an entire justification of that officer. His political principles, supported as they were by his acknowledged talents, and a numerous body of zealous friends, made him an object of unceasing dread and suspicion to the leaders of the Republican party. It had been whispered that General Washington was inclined to nominate him on the special mission to England, and the rumor excited so much alarm among his political opponents, that the President received two letters in opposition to the appointment, one of them from Mr. Monroe, then a Senator from Virginia. In yielding to this opposition, the selection he made seems liable to yet stronger objections.

The increased expenses of the Government requiring an addition to the revenue, a tax on pleasure-carriages was among the expedients suggested. This was opposed on the ground that it was a direct tax, and consequently,

the Constitution required that it should be apportioned among the States according to their population. The question was litigated in Virginia, and on an appeal, the Supreme Court affirmed the first decision that the tax was not a direct one, under the meaning of the Constitution.

On the fourth of June, the President communicated to Congress the reply of the Secretary of State to the British Minister's letter of the twenty-second of May.

Referring to Mr. Hammond's admission of the authenticity of Lord Dorchester's speech to the Indians, Mr. Randolph says that Hammond, not denying that Lord Dorchester had encouraged the hostile dispositions of the Indians towards the United States, insists that the aggressions had been principally from the States. These charges he examines in detail.

First. The alleged trespasses of the people of Vermont. He says that (as Hammond had been already assured by Mr. Jefferson) the United States had determined to repress the acts complained of, and that instructions had been given accordingly: that, from the seventh of July, 1792, to the tenth of March, 1794, no complaint of this character had been heard of; nor was it until after Lord Dorchester's speech that this remonstrance was renewed.

Second. The fitting out two privateers in South Carolina. This transaction probably occurred at the beginning of the war, and before that occurrence was communicated to the United States. Mr. Hammond had been previously informed that the Government had taken measures to prevent a repetition of the acts complained of.

Third. Captures made by French privateers before June, 1793. The American Government was justified



in not undertaking to restore the property, but it does not decide on the validity of the capture.

Fourth. The cases of the privateers *Le Petit Democrat* and *La Carmagnole*. It is probable that their inactivity was caused by the intervention of the Government.

Fifth. The sale of prizes made by French cruisers in the United States. The law of nations on this question is doubtful. The President proposes to bring it to the notice of Congress.

Sixth. French vessels have been permitted to leave the United States, notwithstanding the embargo. This fact is denied. Some spécial passports had been granted, and one to Mr. Hammond himself; several to the British dominions — twenty-six in all.

Seventh. The unfriendly treatment received by British officers in the United States. In the only cases made known to the Government, proper measures were promptly adopted.

Eighth. The events at Newport, in Rhode Island. The Secretary sends to the Minister a detail of the proceedings on that occasion.

Ninth. Mr. Randolph insists, in conclusion, that Governor Simcoe's expedition was without justifiable pretext. The British fort of Detroit, being within the United States, can furnish no reason for another fort still further within their limits.

As Gouverneur Morris was believed in France to have been unfriendly to the revolution; and, in his sympathy for the Court party, to have rendered active service to Louis the Sixteenth, his recall was requested by the French Government. Upon which the President appointed as his successor, James Monroe, known to be

well affected to France, and the recent change in her government.

Genet was succeeded by Fauchet, who, not deficient in zeal for France and for republicanism, was never, like his predecessor, betrayed by it into any indecorum towards the American Government.

One of his first official acts was to ask for the advance of part of the debt due from the United States to France, which was wanted for St. Domingo; but the subject having been referred to the Secretary of the Treasury, he reported that the whole amount due to France, or near it, had been already paid.

During this session the settlement of the debts of the several States with the United States was brought to a close; when it appeared that the sum of three millions five hundred and seventeen thousand five hundred and four dollars was due to the seven States of New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, South Carolina, and Georgia, from the other six States.

It afforded a cause of party triumph to those who had opposed the assumption, when it was shown that if the United States had waited to assume the State debts till the accounts had been finally settled, the very same result would have been effected, and the individual States have been placed in the same relative situation in which they now stand, by assuming eleven millions of dollars instead of twenty-two millions.<sup>1</sup>

As a part of the debts<sup>2</sup> due from the States was confessedly not expended for the war, or in the common

<sup>1</sup> Gallatin on Finances, page 107.

The additional public debt created by that improvident scheme of finance was ten millions eight hundred and eighty three thousand six hundred and twenty-eight dollars.

cause of all, but for expenses which had, in other States, been defrayed by taxes levied on the people of those States, the assumption was an injustice to those last mentioned States; and it was unwise, on the score of policy, since the States most in debt were also the principal creditor States, and the balances due from them could have been more easily paid by them than the whole amount assumed could be paid by the General government; since it was thus compelled to resort to a course of taxation which was at once burdensome and unpopular, and which, by favoring the suspicion that the Federal party wished to afford more field for speculation, and to increase the public debt, gave more strength to the enemies of the government than to its friends. But in the steadily augmenting resources of the country by reason of its natural growth, and the gains derived from its neutral commerce, this financial error was soon forgotten, and at the present time, when a single State owes nine or ten times as much as the debts then due from Massachusetts or South Carolina, the whole amount of injustice and inconvenience caused by the assumption are regarded as one looks back on the petty sorrows and distresses of his childhood.

The session ended on the ninth day of June, and the third day of November was appointed for the next meeting of Congress.

The nation and the government now had the satisfaction to hear of General Wayne's success against the Indians on the Maumee River,<sup>1</sup> in what is now the State of Ohio. This force amounted to two thousand warriors, and Wayne's consisted of nearly that number of regulars,

<sup>1</sup> This river is sometimes called, in the histories of the day, the Miami of the Lakes, to distinguish it from the river of the same name which empties into the Ohio.



and about eleven hundred mounted volunteers from Kentucky. The Indians were strongly posted behind a thick wood near the fort recently built by the British, and were defended from the attack of the mounted volunteers by the trees with which a late hurricane had covered the ground. Wayne had formed his Kentucky legion into two lines, but so impetuous was the attack of the first line, that the Indians were routed and dispersed before many of the second line could take part in the action. Wayne's loss, in killed and wounded, was one hundred and seven men; that of the Indians was estimated at twice that number.

After this victory, the whole Indian country in the North-west was laid waste, and forts were erected by Wayne to prevent the future hostilities of the savages. Under the belief that the Indians had been stimulated by the British, the houses and corn-fields round their fort, even to its verge, had been destroyed, including those of an English trader, known to have great influence with those people, which gave rise to an angry correspondence between the Commander of the fort and General Wayne.

This success, and the decisive measures which followed it, prevented a general war with the Indians north-west of the Ohio, and produced a salutary effect on the Southern tribes within the limits of Georgia.

In the course of this summer an open resistance to the law caused pain and mortification to every patriotic American, whether he thought the complaints of a portion of the people against the Government were well or ill-founded.

In every part of the United States except Pennsylvania, and in by far the larger number of the counties of that State, the officers of the Federal Government had been able to carry the excise law, unpopular as it gene-

rally was, into execution; but resistance having been made in a few of the western counties, and their defiance of law increasing with the forbearance of the Government in that State, prosecutions had been ordered against the offenders. In July, the Marshal of the District, Lenox, who was serving the process, and General Neville, the Inspector, were attacked by a body of armed men, and compelled to desist from the execution of their official duties.

The next day, a much larger number, amounting to five hundred men, assembled, and endeavored to seize the person of General Neville. Failing in that, they exacted a promise from the Marshal that he would serve no more process on the west side of the Alleghany; and attacking the Inspector's house, they set fire to it, and destroyed it with its contents. On this occasion, the leader of the assailants was killed, and several of them wounded. Both the Inspector and Marshal were required to resign; but they refused, and sought safety in flight.

A meeting was held a few days later, at Mingo Creek meeting-house, which recommended to all the townships in the four western counties of Pennsylvania, and the neighboring counties of Virginia, to meet, by their delegates, at Parkinson's ferry, on the Monongahela, on the fourteenth of August, "to take into consideration the situation of the western country."

Three days after this meeting, a party of the malcontents seized the mail, carried it to Canonsburg, seven miles distant, and there opened the letters from Pittsburgh to Philadelphia, to discover who were hostile to them. They then addressed a circular letter to the officers of the militia in the disaffected counties, informing them of the intercepted letters, and calling on them to rendezvous at Braddock's Field on the first of August,

with arms in good order, and four days' provision. "Here," they said, "was an expedition in which they would have an opportunity of displaying their military talents, and of rendering service to their country." This circular was signed by seven persons, but the prime mover was David Bradford, a lawyer, who was the prosecuting attorney of Washington County.

In consequence of this summons, a large body of men, which has been estimated at from five to seven thousand, assembled at Braddock's Field on the day appointed. Many of them were prepared, both by arms and inclination, for action; but some also were men of respectability, who attended for the purpose of preventing mischief. Bradford took upon himself the military command, which was readily yielded to him; and by his denunciation of "traitors and cowards," stimulated the violent, and awed the more moderate into silence.

At a council of the principal officers, it was decided to choose a committee of three persons from each regiment to deliberate on their future course. The committee accordingly assembled, and having appointed Edward Cook their chairman, Bradford proposed the expulsion from Pittsburg of several persons whose hostility had been discovered by the letters they had intercepted; but his motion was carried only as to two persons, Gibson and Neville, son of the Inspector. They then decided to proceed to Pittsburg. Some assented to this, to prevent the mischief which others meditated. But for this, and the liberal refreshments furnished by the people of Pittsburg, it was thought that the town would have been burnt. At night, however, the barn of Kirkpatrick, an obnoxious citizen, was set on fire, after which the rioters dispersed.

Judge Wilson, an Associate Justice of the Supreme



Court of the United States, having certified that in the Counties of Washington and Alleghany, in Pennsylvania, the laws of the United States were obstructed "by combinations too powerful to be suppressed by the ordinary course of judicial proceedings" — a preliminary step required by the act of Congress in such cases—the President issued a proclamation reciting the acts of treason, commanding the insurgents to disperse, and warning others against abetting them. He, at the same time, wishing to try lenient measures, appointed three Commissioners<sup>1</sup> to repair to the scene of the insurrection, to confer with the insurgents, and to offer them pardon on condition of a satisfactory assurance of their future obedience to the laws.

Before the President decided on this course of forbearance, the policy of calling out the militia had been discussed in the Cabinet. Messrs. Hamilton, Knox, and Bradford, as soon as the violent proceedings against the Marshal and Inspector were known, thought that course should be adopted without delay. Mr. Randolph was opposed to it, as likely to inflame opposition, and unite the people of the State. Governor Mifflin, who was consulted, inclined to the same opinion. The President, not entirely concurring in the views of either party, made requisitions of twelve thousand, subsequently raised to fifteen thousand militia of the States of New Jersey, Pennsylvania, Maryland, and Virginia, but, content with requiring them to be held in readiness, he did not at once order them into the field.

Governor Mifflin followed the example of the President in appointing Commissioners to confer with the

<sup>1</sup> These were James Ross of Pittsburg, one of the Senators from Pennsylvania, Mr. Bradford, the Attorney-General, and Jasper Gates, a Judge of the Supreme Court of the same State.

insurgents, with power to grant pardons, and he issued an admonitory proclamation, after which he convened the Legislature to meet on the third of November.

The Federal and the State Commissioners reached the insurgent district while the convention at Parkinson's ferry was in session. It assembled on the fourteenth of August, and consisted of two hundred and twenty-six delegates,<sup>1</sup> all from the western counties of Pennsylvania, except six from Ohio County in Virginia. They appointed Cook their Chairman, and Albert Gallatin, Secretary, though he at first declined the appointment. After some discussion, in which a part of them manifested a disposition to carry out their original purpose of resistance to the excise laws, they adopted four resolutions: first, against taking citizens out of the vicinage for trial; second, appointing a standing committee of sixty to ask of Congress a change of the excise law, and to make a statement of their proceedings; third, recommending submission to the laws of the several States, and a respect for the persons and property of individuals; fourth, appointing a sub-committee of fifteen to meet the Government Commissioners, and to report their proceedings. The resolutions were adopted by all, except Bradford, who favored a more violent course, and the meeting adjourned.

The sub-committee of fifteen met the public Commissioners some days later, at Pittsburg, and all of them, except one, were favorable to a conciliatory course. The

<sup>1</sup> There were from Alleghany County..... 43 deputies.

Washington	"	93	"
Bedford	"	2	"
Fayette	"	33	"
Westmoreland	"	49	"
Ohio	" in Virginia.....	6	"

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Total..... 226 "

Commissioners required of the committee of sixty an explicit assurance of submission to the laws; a recommendation to their associates of a like submission; and meetings of the citizens to be held to confirm these assurances. All public prosecutions were to be suspended until the following July, when, if there had been no violation of the law in the interval, there should be a general amnesty. These terms were deemed reasonable by the sub-committee: but before the meeting of sixty took place, a body of armed men entered Brownsville, the place appointed for the meeting, and so alarmed the friends of accommodation, that they seemed to be driven from their purpose. Gallatin, however, was an exception; and the next day, he addressed the committee of sixty in favor of acceding to the proposals of the Commissioners; but nothing more could be effected than to pass a resolution that it would be to the interest of the people to accept those terms, without any promise or pledge of submission. After appointing a new committee of conference, the meeting adjourned.<sup>1</sup>

The new committee required further time till the tenth of October, which the Commissioners deemed themselves unauthorised to grant. They required meetings in all the townships, in which the sense of the people should be taken.

Meetings were accordingly held in some of the townships, but they failed to procure the required pledges; and, in some, the proceedings were violent and disorderly. On the whole, it was the opinion of the well-disposed part of the population, that the inspection laws could not be executed in that part of the State; and that the interposition of the militia was indispensable.

The Commissioners returned to Philadelphia, and on

<sup>1</sup> See Findley's and Breckenridge's Tracts on the insurrection.



their report the President issued a second proclamation, on the twenty-fifth of September, in which he announced the march of the militia, and again commanded obedience to the laws.

The order requiring the militia to march was promptly obeyed in all the States except Pennsylvania, in which some pleaded defects in the militia law; but even in that State, after the Legislature met, the Governor was authorised to accept the services of volunteers. This aid he then, by a tour through the eastern counties, and his own personal exertions, was soon able to obtain. The militia of New Jersey and Pennsylvania were required to rendezvous at Bedford, and those of Maryland and Virginia at Cumberland. They were commanded by the Governors of their respective States, and the whole force was placed under the command of Governor Henry Lee, of Virginia.

The news that the militia were on the march increased the numbers of the moderate party. The standing committee of sixty met at Brownsville on the twenty-eighth of August; Cook the Chairman, and Gallatin the Secretary. The sub-committee offered a report, which recommended submission. It was ably and zealously supported by Gallatin; and also by Breckenridge, who had, in aiming to conciliate both parties, in some measure lost the confidence of both.

With a view of obtaining better terms from the Commissioners, another committee of twelve was appointed; but nothing decisive took place, and the Commissioners left the County. It is not unworthy of notice that Bradford, who was foremost in urging resistance to the law, was the first to seek safety in flight. He sought refuge in New Orleans.

A second convention was called to meet at Parkinson's

ferry on the second of October. A resolution of submission was passed, and a committee of two was appointed to convey it to the President at Carlisle. They were Findley, a member of Congress, and Reddick.

The President received these gentlemen courteously, but did not feel himself justified, from their representations, in stopping the march of the troops.

On the return of the committee, the Parkinson ferry convention met for the third time, and resolutions were passed, declaring the sufficiency of the civil authorities to execute the laws; affirming that the excise duties would be paid, and recommending all delinquents to surrender themselves. A committee of four was appointed to wait on the President—the two former Commissioners and two others.

Meanwhile, the President had returned to Philadelphia to prepare for the meeting of Congress, and Hamilton, who had remained behind, received the committee. Lee, then, as Commander-in-chief, issued a proclamation granting an amnesty to all who had submitted to the laws; and calling upon the inhabitants to take the oath of allegiance to the United States. Orders were issued and executed to seize those offenders who had not signed the declaration of submission, and send them to Philadelphia; and thus was this purpose of resisting the execution of the excise law completely defeated, and entire order restored in less than four months from the time of the burning of Neville's house, which was the first overt act of resistance. It was, however, deemed prudent to retain a force of two thousand five hundred militia during the winter, under General Morgan, to prevent a return of that spirit of disaffection which had so long prevailed in Pennsylvania.

The army sent to suppress the insurrection were them-

selves not free from a disposition to license and disorder, according to Findley; and that they did not proceed to other excesses, in their desire of vengeance against the insurgents, he imputed to the moderation of General Washington, and his resistless weight of character in the execution of his purposes.

It seems to require explanation that there should have been so many instances of a spirit of insubordination in the State of Pennsylvania. There were two examples of mutiny in the troops of that State during the Revolution, and two popular insurrections growing out of the excise laws. The cause is probably to be referred to the large proportion of foreigners in that State—mostly Irish and Germans—who, accustomed to the severe restraints of law in their native country, were, when released from those restraints as they are in the United States, tempted to abuse the unwonted liberty they here enjoyed. With them the authority of government was viewed with somewhat of the odium in which they had been reared, and not with that respect which men born to the enjoyment of civil liberty are apt to feel. The natural effect of republican government is to temper the love of liberty with the love of order.

On the subject of the excise, the mass of the people of Pennsylvania had their minds unduly excited by a writer in the newspaper who signed himself "Tom the Tinker." He at once inflamed those who were disposed to resist the law, and intimidated those who were inclined to submission, by the fear of popular hatred.

Congress was not organized until the nineteenth of December, for want of a quorum in the Senate. In the President's opening speech he gave a full detail of the insurrection, of the measures taken by the administration in suppressing it; and of the motives which had dictated



them. He suggests the propriety of indemnifying the Inspector and others who had been injured in the late disturbances. He finds consolation for this political disaffection in the proof it has afforded that the true principles of government and of civil liberty are well understood by the citizens of the United States, and that they will ever be as ready to sustain the civil authority against licentious invasions of it as against usurpations: that a patriotic spirit has been equally manifested by the least, and the most wealthy classes.

The attention of Congress is called to the militia laws, and some of their defects are specially noticed. A definitive plan for the redemption of the public debt is also earnestly recommended.

Some expressions in this speech invite criticism, of which the opposition in both Houses readily availed themselves. He said that, from a belief that certain self-created societies had assumed the tone of condemning the excise laws, in allusion to the "Democratic Societies," which, in imitation of the Jacobin clubs of Paris, were established in various parts of the United States; and, in another part of the speech, he remarked, "when they [the citizens] have retraced the origin and progress of the insurrection, let them determine whether it has not been fomented by combinations of men who, careless of consequences, and disregarding the unerring truth that those who rouse cannot always appease a civil convulsion, have disseminated, from an ignorance or perversion of facts, suspicions, jealousies, and accusations of the whole Government."

In the Senate, an answer to the speech having been prepared by a committee, on the following day Mr. Burr of New York, seconded by Mr. Jackson of Georgia, moved to expunge the following passage:

“Our anxiety, arising from the licentious and open resistance to the laws in the western counties of Pennsylvania, has been increased by the proceedings of certain self-created societies, relative to the laws and administration of the Government; proceedings, in our apprehension, founded on political error; calculated, if not intended, to disorganize our Government, and which, by inspiring delusive hopes of support, have been influential in misleading our fellow-citizens in the scene of insurrection.”

But the motion was negatived, and the reported answer adopted.

In the present day it may seem strange that the proceedings and publications of a few voluntary associations should have been worthy of notice to the Legislature, or that the President should conceive that he had a right thus to denounce any portion of his fellow-citizens for exercising their right of speaking or printing, even though they had, in his opinion, greatly abused that right; and still more strange, perhaps, that one branch of the Legislature — that branch to which men would be most likely to look for moderation and wisdom — should have fallen into the same error. If the Democratic Societies had been actuated by the motives ascribed to them; if their publications had been attended by the mischievous consequences alleged (both of which are highly probable), it ought to have been recollected that they were amenable to no law which could be constitutionally passed by Congress for any thing which they should speak or write.<sup>1</sup> It seemed, therefore, not accordant with dignity or propriety to notice publications to a Legislature which had no power of punishing them; and

<sup>1</sup> First amendment to the Constitution.

supposing their attacks on the administration to have been false or unwarranted, the proper course towards them was to bring them before the same forum to which they themselves had appealed. The power and authority of the Government is here to be exerted only against the violations of law.

The two parties being nearly balanced in the House, their contest for the ascendancy generally, and on the subject of the Democratic Societies in particular, was vehement and obstinate.

In this state of things, insignificant questions acquired an undue and unwonted importance. Thus, the President having spoken of his "policy, in foreign transactions, to cultivate peace with all the world, to observe treaties with pure and absolute faith, to check every deviation from the line of impartiality," Mr. Madison, who had prepared the reply of the House, proposed the following amendment :

"Solicitous also, as we are, for the preservation of peace with all nations, we cannot otherwise than warmly approve of a policy in our foreign transactions which never loses sight of that blessing."

But the Federal party insisted that the words "a policy," instead of "your policy," was an implied censure on the President. The alteration was opposed by Mr. Madison; but after a discussion of the question by both parties, he put an end to the debate, on the suggestion of a member, by withdrawing his amendment.

Mr. Fitzsimmons proposed, as an amendment to the answer to the President's speech reported by the committee, a censure on "the self-created societies, which, by deceiving and inflaming the ignorant and weak, may be naturally supposed to have stimulated the insurrection."

Mr. Giles, in his reply, opposed the amendment; and,



after expressing his high respect for the President, and entire confidence in him, he objected to the sweeping censure on self-created societies, remarking that there was scarce a man in the United States who did not belong to some self-created society: that the term would apply to the Methodists, Baptists, Friends, and other sects: that the Republican Society of Baltimore were among the first who marched against the insurgents; and that some of the Democrats of Philadelphia had done the same thing. In answer to the remark, that as these Societies had censured the administration, the Legislature might justifiably in turn censure the Societies, he denied that as legislators they had any right to censure, but only in their private capacity.

This amendment, after having been warmly debated by Messrs. Lyman, McDowell, and Nicholas, in its favor, and by Messrs. Smith, Tracy, Dayton, and Murray, was the next day withdrawn by its mover, Mr. Fitzsimmons.

The debate was, however, renewed, and continued for three days, during which the ablest members of the House took part — Messrs. Madison, Giles, Nicholas, and Baldwin against the insertion of the obnoxious words; and Messrs. Hillhouse, Sedgwick, Boudinot, Dexter, Scott, and Ames, in favor of it.

Mr. Scott, who lived in the western part of Pennsylvania, bore testimony to the mischievous influence of the Democratic Societies; and Mr. Ames greatly distinguished himself by his eloquent denunciations of those societies, founded on a reference to their intemperate doctrines and proceedings in various parts of the United States.

Several successive amendments were made, and the contest of the two parties seemed to hinge upon the introduction of the words “self-created societies,” which were alternately adopted and rejected. At length, on the

twenty-eighth, they were struck out of the response to the speech, and the following passage was adopted :

“ We learn, with the greatest concern, that any misrepresentations whatever of the Government and its proceedings, either by individuals, or combinations of men, should have been made, and so far credited as to foment the flagrant outrage which has been committed on the laws.”

From this small triumph obtained by the opponents of the administration, the Democratic Societies appeared to derive new vigor; but after the downfall of Robespierre and the Jacobin Clubs in France, which took place during this year, the American Societies fell also into general disrepute, and gradually died away.

It was deemed prudent to pass an act authorising the President to station a detachment of militia in the four western counties of Pennsylvania which had taken part in the insurrection. Provision was also made to indemnify those whose property had been destroyed by the insurgents; and an appropriation of more than a million of dollars was made to defray the expenses of quelling the insurrection.

Votes of thanks to General Wayne and General Scott, and the officers and soldiers under them respectively, were objected to by several of the members, as setting a bad precedent, but were finally adopted by an unanimous vote. The thanks of the House to the militia of New Jersey, Pennsylvania, Maryland, and Virginia, who, “on the late call of the President, had rallied round the standard of the laws,” were also voted with the same unanimity.

The redemption of the public debt was among the first of those subjects recommended by the President on which Congress acted. It was referred to a select committee, of

which Mr. Smith, of South Carolina, was Chairman, and on the twenty-third of December the committee made their report, in which, after a review of the debt, the expenditure and resources of the nation, they recommend a continuance of the existing taxes on manufactured sugar and snuff, on carriages, on licenses to retail liquors, and sales at auction, to continue until 1801, when the deferred debt of fifteen millions becoming due, it would be necessary to make further provision for the debt. On the subject of a direct tax, they say that it ought not to be meddled with, but should "remain as our grand resource in case of war."

This report furnished materials for the most protracted and varied debate of the session, in which its principal purpose of continuing the existing duties was opposed by the Republican party, and supported by the Federalists. If the former obtained an advantage over their adversaries on the topic of the "self-created societies," that advantage was balanced, or more than balanced, by their course on the question of redeeming the public debt. It was likely to excite the surprise of the American people, and it did provoke the taunts of their opponents, that the very men who had upbraided the Federalists with wishing to perpetuate the public debt, and had accused Hamilton of so framing his system of finance as to produce this result, should now, when a plan of redeeming the debt was proposed, unite in opposition to it.

The objections which they made to the plan could not defend the party from the charge of inconsistency. Some urged that, to continue the small duties laid on snuff and refined sugar, would be injurious to the manufacturing interests; and others, that they would press on the class of consumers. Some insisted that it was premature to decide on the continuance of taxes which yet had two



years to run : others again urged the insufficiency of the existing taxes, and professed themselves friends to a direct tax, though they did not venture to propose it.

While those of the Republican party who engaged in the debate spoke highly in favor of direct taxes, in preference to indirect, the Federalists made no other objection to them than their admitted unpopularity. This requires explanation. It was, at that day, a favorite maxim with the Republicans, that direct taxes were particularly suited to popular government, as they were more economical than indirect taxes, for two reasons : one was that, being inconvenient and unpalatable, they begat a vigilance in the people which would check the extravagance to which all governments have a proclivity : the other reason was, that taxes on consumption draw more money from the pockets of the people, because not only is the tax added to the price of the commodity, but also a profit on the tax to him who has advanced it. Both of these supposed recommendations of direct taxes, however, admit of ready answers.

As to the preference given to direct taxes, because they are more felt by the people, this is to incur a certain evil for the mere chance of a benefit ; and as to the supposed saving in the cost of collecting direct taxes, though that may be true in European countries, it is not true in the United States. From the vast extent of territory, and the wide dispersion of their population, the valuation of real estate is there very expensive, and these valuations, from the rapid changes which such property is ever undergoing, must be frequently, perhaps annually, made. Thus, while the cost of the impost has been less than five per cent., that of the direct tax has been about twenty-five per cent. This difference between the two species of tax has been many times any presumable addition to

the tax by way of profit to those who advanced it, and which, moreover, is not always advanced; and from which it follows, that indirect taxes are more economical, as well as more easy to the people, than direct taxes; and thus we see how unsafe it is to draw rules of policy from other countries without duly considering the difference of circumstances.

On this question, as well as that of the self-created societies, a majority of the House decided rightly; and a bill was introduced founded on the report, which, after some disagreement of the two Houses, was finally passed.

While the subject of the redemption of the debt was under discussion in the House, the Secretary of the Treasury sent to the Senate the official report required of him by act of Congress, in which he submitted a plan, on the basis of the existing revenues, for the further support of public credit.

This report, communicated to the Senate on the twentieth of January, 1795, presented copious details of what had been already done relative to the debt, under the three heads of: first, the revenues which had been established; second, the provisions for funding the public debt, and paying the interest; third, the provisions for reimbursing and extinguishing the debt.

He shows the whole public debt, foreign and domestic, to be a little upwards of seventy-six millions of dollars, exclusive of one million four hundred thousand dollars due to the Bank, and some anticipations of the current revenue: that the annual revenue was \$6,552,800 74

The annual expenditure, . . . \$5,681,843 84

He then submits a number of distinct financial propositions, on each of which comments are made with a view to the improvement of public credit, and the redemption of the public debt.

This was Hamilton's last official act. He soon after sent in his resignation. It was understood that the insufficiency of the salary attached to his office had compelled him to give it up, and to resume the practice of the law. He was succeeded by Oliver Wolcott, of Connecticut, who was a great admirer of Hamilton, and an honest supporter of his views.

During the previous month, General Knox had sent in his resignation, and was succeeded by Timothy Pickering, of Massachusetts.

The great number of immigrants who were now flocking to the United States inclined sober-minded men of all parties to make the rights of American citizenship less easily obtained. The previous residence required of them was therefore extended to five years; and the declaration of an intention to become a citizen was further required to be made three years before naturalization.

Mr. Giles proposed that the applicant should add to the renunciation of his former allegiance, any title of nobility which he may have previously possessed. This was treated with ridicule by the Federal members, one of whom moved to add, that if the new citizen had been a slaveholder, he should also renounce his right to hold slaves. Mr. Giles's amendment, however, prevailed by a majority of fifty-eight to thirty-two.

The third of March put an end to the session, and to the third Congress.



## CHAPTER VIII.

### WASHINGTON'S ADMINISTRATION.

#### SECOND TERM.

1795—1797.

IN March, the treaty negotiated by Mr. Jay, which both parties, with opposite views and feelings, had been anxiously expecting, was received; and in June the Senate was summoned to decide on its ratification. After deliberating on the subject from the eighth to the twenty-fourth of the month, precisely two-thirds of that body — the number required by the Constitution — advised its ratification, with the exception of the twelfth article, which related to the West India trade.

By this article, a direct intercourse with the British West Indies was permitted to the United States under two conditions, which restricted the trade to vessels of not more than seventy tons, and prohibited the exportation from the United States of the principal products of the West Indies, among which cotton was included, that commodity not being known to Mr. Jay to have been one of the exported products of the United States. On both these accounts that article was deemed inadmissible, and the ratification was consequently made subject to this exception.

The Senate had, according to usage, deliberated on the treaty with closed doors, and it was understood that it was not to be promulgated until it was finally concluded; but on the twenty-ninth of June, Stephen

Thompson Mason, one of the Senators from Virginia, felt himself warranted in sending a copy of it to the leading opposition paper published in Philadelphia, on which arose one general burst of popular indignation and complaint.

In the temper then felt by a large portion of the American people towards Great Britain and France respectively, it is probable that no treaty could have been made which would have given general satisfaction ; but when the one which had been negotiated fell so far short of the just claims of the United States — when it conceded so much and obtained so little, the popular clamor and discontent were proportionally loud and vehement. Meetings were held in all the cities of the Union, and in many other places, to denounce it as an abandonment of the nation's dearest rights ; and the press, seconding these expressions of popular indignation, reviled the treaty, and redoubled its censures on the appointment of Mr. Jay as its negotiator. After this first tempest of opposition had somewhat subsided, less numerous meetings were also got up by the friends of the treaty, and it was defended in pamphlets and the periodical press with zeal and ability. Mr. Hamilton was the author of a very full and ingenious vindication of it,<sup>1</sup> and public expectation was on tiptoe to see whether the President, who had suspended his decision till after his return from a visit to Mount Vernon, would finally give it also his sanction.

The treaty professed to have the three-fold purpose of settling the existing disputes between the two countries, both recent and ancient ; to determine some points of national law, particularly on the relative rights of belligerents and neutrals ; and to regulate the future com-

<sup>1</sup> Under the signature of Camillus, in answer to a series of papers signed Decius, and written by Brockholst Livingston.

mercial and other important relations between the two countries.

With a view to the first object, provision was made for ascertaining the boundary lines both on the north-east and the north-west. Great Britain agreed to surrender the military posts which she still held within the United States, reserving certain rights to British settlers near them, and to pay American citizens for recent illegal captures on the high seas, whenever compensation could not be obtained in the regular course of judicial proceedings.

The United States, on their part, agreed to compensate British creditors for all damages sustained by them in the recovery of their debts, from legal impediments, and to pay for all captures of British property within the jurisdiction of the United States. These several provisions were to be executed by three mixed commissions.

Under the second head, it was stipulated that neutral vessels, having contraband articles on board, should be carried to the most convenient port; should not be liable to confiscation, on entering a blockaded port without previous notice; that provisions, when, by the modern law of nations, they became contraband, should be paid for, and the neutral be indemnified for detention; neutral property, found in a besieged place, to be restored; commanders of privateers to be responsible for damages done to neutrals, for which purpose they should be required to give bond and security.

In behalf of the belligerents, it was stipulated that every article used in the equipment of vessels, except fir planks and unwrought iron, should be deemed contraband; ships-of-war of one nation to be entitled to hospitable reception in the ports of the other; all prizes to have free admission into the ports of either nation, without examination, fee, or detention; the citizens or sub-



jects of one nation not to engage in hostilities against the other. Privateers of a third party not to arm or to sell their prizes in the ports of either, nor, when they had made prizes on the other, to receive shelter, except from stress of weather; the neutral to permit no property to be captured within his jurisdiction. In case of war, there should be no confiscation of private property; the merchants of one nation, residing within the territories of the other, might, under certain conditions, continue to reside there; and reprisals were never to be made without a demand of satisfaction, and proof of injury.

Under the third head the parties agreed to permit a free trade and intercourse, on either side of their common boundary (the limits of the Hudson's Bay Company excepted), and to the Indians within their respective limits; the mutual navigation of their inland waters was permitted, with the following exceptions: American vessels were not to enter any British seaport, or any river *below* the highest port of entry (with a single unimportant exception), and British vessels were not to enter any river of the United States *above* the highest port of entry, except that every port and place on the Mississippi should be open to both parties.

Between the British territories in Europe and all the territories of the United States, the terms of commercial intercourse were entirely reciprocal, with the exception of the twelfth article above mentioned. Each party was admitted into the ports of the other on the same terms as the most favored nation, both as to duties and prohibitions; and the United States were restricted from increasing their discriminating duties in favor of American vessels; and to Great Britain was reserved the right of countervailing those which then existed.

A trade to the British settlements in India, in articles

not prohibited, was also permitted to American vessels on their paying the same tonnage duties and charges as British vessels; but the United States agreed to carry the products of those settlements only to their own ports. They were not to engage in the coasting trade, and their citizens were not to reside in those settlements.

Provision was made for the appointment of consuls by both parties, and for the surrender of persons charged with murder or forgery.

The twenty-first article prohibited the citizens and subjects of either party from accepting commissions, or engaging in hostilities against the other.

The articles concerning boundary, interior commerce, and confiscation, were made perpetual. The other articles were limited to twelve years, or to two years after the termination of the present war, at the option of either party.

In this treaty, now that the passions and prejudices of the time have passed away, it must be admitted that the advantage of a stronger power, in its negotiations with a weaker, were very strikingly exhibited.

Thus, while British creditors were indemnified for the losses sustained in consequence of legal impediments, no compensation was made either for the negroes carried off by the British, contrary to the treaty of peace, nor for the detention of the western posts.

The navigation of the Mississippi was conceded to the British by the treaty of 1783, on the ground that as a part of their territory in North America touched that river, they had a right to an outlet to the ocean; and that right was now renewed when it was believed that their dominions nowhere touched that river. But the navigation of the St. Lawrence was not granted to the

United States, though the natural outlet to the whole north-western frontier of New York.

By the third article, which gave to both parties a mutual right of inland navigation, American vessels were not allowed to enter any port or river below the highest port of entry (except between Montreal and Quebec), while British vessels had not a correspondent exclusion from American rivers. The special exclusion of British vessels from any place above the highest port of entry was altogether nugatory.

By extending the list of contraband articles, Great Britain, as a belligerent, was benefited, and the neutral commerce of the United States was proportionally abridged. This was especially the case in extending the list to provisions, of which they were most extensive producers, as well as the neutral carriers.

While British vessels are admitted into all the ports of the United States, the vessels of the latter are excluded from all the British colonies in America with whom their trade would be most advantageous both from their vicinity, and from each country furnishing the commodities which the other most wanted. The trade which was vital to their West India colonies they insisted on monopolizing, with the exception of that restricted trade permitted by the twelfth article, which was confined to shipping too small for the lumber trade, or to enter into competition with larger vessels in any branch of commerce.

By restricting the United States from further discriminating duties, they were deprived of the only means they possessed of countervailing the colonial monopoly.

No provision whatever was made for the most grievous and vexatious of national wrongs sustained in the impressment of American seamen.

Even in those articles which had the show of entire reci-



procity, the advantage was greatly on the side of Great Britain, from the different circumstances of the two countries. Thus, the provisions which allowed aliens to hold lands, and prohibited the sequestration of debts due to resident merchants, and also reprisals, might benefit twenty or even fifty British subjects for one American citizen. Even in the fur trade, by means of the exception in favor of the Hudson Bay Company, the principal profit from it was secured to British subjects.<sup>1</sup>

In addition to the intrinsic objections to the treaty, and to the weight of the opposition to it, General Washington had a further inducement to hesitate in giving it his sanction, in consequence of a rumor that the British order in council of the fifth of June was again put in force, and he finally decided, if that was the case, to ratify it conditionally, to take effect on the revocation of that order. From this temporising course he was diverted by an occurrence in his own Cabinet.

A recent despatch of the French Minister, Fauchet, to his own Government having been intercepted by a British cruiser, had been transmitted by Lord Grenville to Hammond, the British Minister. In it, Fauchet had given a view of the state of parties in the United States, and an

<sup>1</sup> After an interval of near twenty years, I see no reason to change the views formerly expressed :

"Mr. Jay left the United States under the firm belief, generally entertained by his party, that peace with England, the prevention of a closer fraternity with the French, and the continued ascendancy of the Federalists, all depended on his making a treaty. Every thing, then, which could interest either his patriotic or party feelings (and neither were lukewarm) was hazarded on this single step. The moral necessity under which he acted was as well known to the British Ministry as it was felt by himself, and they naturally profited by it to insist on every thing which he could venture to give, and to concede nothing which they could decently refuse." — I. Life of Jefferson, page 507.

account of his conferences with the American Secretary of State, in the course of which details he indulged in comments injurious to the character of the United States, and yet more to that of the Secretary of State. It being understood that Randolph was opposed to the ratification of the treaty, Hammond imputed the President's hesitation to Randolph's influence, and he communicated Fauchet's despatches to Wolcott as a proof of Randolph's intrigues. The other members of the Cabinet, on consultation, decided on summoning the President forthwith to Philadelphia, and laying these despatches before him.

On the President's return to the city, he submitted the question of ratification to his Cabinet, when all but the Secretary of State advised its unconditional ratification, accompanied, however, with a strong memorial against the late order in council. The drafting of this memorial having been previously determined on, it had been done by Mr. Randolph while the President was in Virginia, and as soon as it was completed, the President laid before the Secretary, Fauchet's despatches. Randolph offered explanations of such passages as exposed him to suspicions, and positively denied all application to Fauchet for money for himself or any one else. He proposed to submit further explanations in writing, but added that he could no longer hold his office, and sent in his resignation the same day. He requested, however, that the affair should not be published until he could see Mr. Fauchet, then in Rhode Island, and about to embark for France.

The request was granted. Mr. Randolph had an interview with Fauchet, and obtained from him a long explanatory letter, in which he admitted that he had probably been mistaken in the purport of the propositions attributed by him to Mr. Randolph. This gentleman defended

himself in a formal vindication addressed to the public, which, while it had little or no effect on his political opponents, was sufficient to acquit him with his friends of the injurious imputations caused by Fauchet, and even to excite the lively indignation of some.

Mr. Randolph was succeeded by Mr. Pickering as Secretary of State; James M'Henry, of Maryland, was appointed Secretary of War; and Charles Henry Lee, of Virginia, Attorney-General. All those offices had been tendered to others and refused, in most instances probably from the known inadequacy of the salaries attached to them.

A treaty was made this summer by General Wayne with some twelve or more tribes of Indians, who were the more ready to terminate hostilities with the United States, now that they found the western posts were about to be delivered up by the British. By this treaty a body of land equal to twenty-five thousand miles square, was ceded to the United States. The Indians received presents to the amount of twenty thousand dollars, and the United States agreed to pay them, in addition, an annuity of nine thousand five hundred dollars.

At this general pacification, many of the whites, long in a state of captivity and exile, were restored to their families; but some of them refused to leave their savage hosts, whose treatment of their prisoners, when they do not put them to death, is often mild, and even kind. Occasionally, they are adopted in the place of the children whom the Indians have lost.

A treaty was also concluded with Algiers, according to the terms of which the American prisoners were to be released, and the Dey was to receive seven hundred and sixty-three thousand dollars in hand, and an annuity of twenty-four thousand dollars in military stores. There



having been some unexpected delay in the payment of this tribute, to prevent him from renewing his threatened hostilities, the American Consul deemed it prudent to propitiate him by engaging to furnish him with a frigate which cost one hundred thousand dollars.

A treaty was also at last effected with Spain, by which the boundary between Florida and the United States was settled: the navigation of the Mississippi, throughout its whole extent, was to be free to both countries: the Americans were to have the right of deposit at New Orleans for three years, after which time either the privilege was to be continued, or some other equally convenient place of deposit on the Mississippi was to be assigned to them: neither nation was to make alliances with Indians living within the limits of the other nation, nor to allow its Indians to carry on hostilities against the other.

The articles concerning commerce and navigation were liberal and reciprocal; provisions and naval stores were declared not to be contraband, and free ships were to make free goods. A mixed commission was provided to ascertain the losses sustained by illegal Spanish captures, which were to be paid for by the Spanish Government.

Congress assembled on the seventh of December, and was addressed by the President the next day, who informed them of the treaties made with the Indians of the North-west, with Algiers, and with Spain; and of the ratification by the United States of the British treaty, except as to the article respecting the West India trade. As soon as the result was known, it should be communicated. He again urged the organization of the militia, and a remodelling of the military establishment. He recommended the protection of the Indians against the lawless aggression of the whites on the frontier; and he

suggested the civilization of those people as a probable result of the benignant efforts of the Government.

The answer of the Senate, which passed an eulogy on the President's foreign policy, was opposed, but was finally passed by fourteen votes to eight.

In the House of Representatives, Jonathan Dayton, of New Jersey, was chosen Speaker. A member from Virginia (Parker), moved to lay aside the practice of a written reply to the speech, and to substitute a message stating that the several subjects submitted by the President should be taken into consideration. The motion, however, was rejected by a large majority, and the usual committee of three was appointed to draft a reply.

The proposed answer, which spoke of the undiminished confidence of his fellow-citizens in the President, met with some modifications in the House, but they still declared their affectionate attachment to his character.

On the fourth of January, 1796, the President sent a message<sup>1</sup> to Congress, informing them that the French Minister had, by order of his Government, presented to the United States the colors of France; together with an address from the Committee of Public Safety to the Representatives in Congress, in the name of the French people.

The address contained the following passage :

“You were the first defenders of the rights of man in another hemisphere. Strengthened by your example, and endowed with an invincible energy, the French people have vanquished that tyranny, which, during so many centuries of ignorance, superstition, and baseness, had enchained a generous nation.

“Soon did the people of the United States perceive that every victory of ours strengthened their independence

<sup>1</sup> II. State Papers, page 97.

and happiness. They were deeply affected at our momentary misfortunes, occasioned by treasons, purchased by English gold. They have celebrated with rapture the successes of our 'brave armies.'

The Minister accompanied the delivery of the colors to the President with a speech in the same inflated style, to which the President replied in a tone of fervor very unusual with him :

"Wonderful people! Ages to come will read with astonishment the history of your brilliant exploits! I rejoice that the period of your toils and of your immense sacrifices is approaching. I rejoice that the interesting revolutionary movements of so many years have issued in the formation of a constitution designed to give permanency to the great object for which you have contended. I rejoice that liberty—which you so long embraced with enthusiasm—liberty, of which you have been the invincible defenders, now finds an asylum in the bosom of a regularly organized government; a government which, being formed to secure the happiness of the French people, corresponds with the ardent wishes of every heart, while it gratifies the pride of every citizen of the United States, by its resemblance to their own. On these glorious events, accept, sir, my sincere congratulations."

On the ninth of January, the Minister formally complains to the Secretary of State that the French flag, instead of being placed in the Hall of the House of Representatives, as the American flag had been in France, had been shut up among the archives, which mark of "contempt or indifference" would create great discontent in France.<sup>1</sup>

Mr. Pickering replied to this captious complaint, that

<sup>1</sup> II. State Papers, page 490.



the circumstances of the two countries are different; that the Representatives of the people are not a single body here as in France, but are divided into two branches: that the French flag had been exhibited to them all; and that the United States never make a display of their own colors, except in their ships and military establishments.

Some successful speculations with the public lands in the State of Georgia, in which the members of the Legislature participated, and which will be hereafter noticed, induced others to make a similar attempt on the members of Congress. They proposed to purchase, for five hundred thousand dollars, twenty millions of acres in the Michigan territory, and offered to admit members of Congress as partners, and then to purchase such shares as the members did not choose to hold. This corrupt offer was communicated to the House by one of those to whom it was made, and the agents, Messrs. Randall and Whitney, were examined by the House. Randall was sentenced to be reprimanded by the House, and to be committed until further order; but the doctrine of the privileges of members being denied by several of the members themselves and among others by Mr. Madison, Randall was, after a few days, discharged.

Early in March, 1796, the President sent the British treaty completely ratified by both nations, with the exception of the twelfth article, and both parties prepared for the contest which, with their conflicting views and feelings, must necessarily arise.

It was begun by Edward Livingston, of New York, who moved a call upon the President for a copy of his instructions to Mr. Jay, and for the correspondence and other documents relative to the treaty.

The avowed object of the motion was to ascertain the

sense of the House as to its having the discretionary power to decide the question of carrying the treaty into execution — the mover being convinced that the House possessed the requisite power.

This question gave rise to an animated debate, which called forth all the talents of both parties, and continued three weeks.

The opposition, in support of the resolution, maintained, that though the power of making treaties was vested by the Constitution in the President and Senate, that did not prevent the restriction which arose from the express provisions of the Constitution, or which required powers not delegated to the President and Senate, as the cession of a State, for example, or of a part of its undisputed territory. Would the Legislature be bound to sanction such an unconstitutional treaty? It would not. Congress then has the power of refusing its co-operation in some cases; and, in the discharge of this power, they must exercise a sound discretion. If the treaty can be executed without the intervention of the Legislature, it is then binding on the nation, and becomes the law of the land; but if such interposition be necessary, then the Legislature is as free to act within its sphere as the Executive had been. To strengthen this construction of the treaty-making power, they referred to the example of England, where the Legislature, in the exercise of its discretionary power, had sometimes refused to carry a treaty into execution.

In answer to the objection that this course may be impolitic as well as unconstitutional, they said, it may make foreign nations cautious of negotiating with the United States; but this is merely an argument against the exercise of the right, not against its existence. This consideration is as likely to have due weight with the

Legislature as with the Executive, especially as the power of declaring war is confided solely to the Legislature. Without this check, the power of taxing, of naturalizing foreigners, of admitting other States into the Union, and of regulating the whole commerce of the country, which the Constitution has placed exclusively in the hands of the Legislature, would thus be transferred to two of its three branches, the President and Senate.

The friends of the administration, on the other hand, maintained that a treaty made pursuant to the forms prescribed by the Constitution, was binding on the nation, and that the Legislature could not refuse to co-operate in its execution without violating their constitutional duty: that, granted they would not be bound to execute a treaty, when the Executive had plainly transcended its powers, that furnished no argument where such a plea could not be pretended; and for the same reason that an act contrary to the Constitution is void, one in conformity with it is binding.

In answer to the argument drawn from the example of England, they drew a distinction between the power there, which derives its authority from usage, and that of the President and Senate in this country, which, by a written Constitution, expressly declares that treaties made by them are the supreme law of the land.

After a debate of a fortnight, the resolution was carried by a majority of sixty-two to thirty-seven. But the President refused to comply with the resolution, and stated his reasons for refusal very fully. He trusted, he said, that no part of his conduct had ever indicated a disposition to withhold information which the Constitution made it his duty to give: that foreign negotiations require caution and secrecy, and the right of the House of Representatives to demand the papers respecting nego-



tiations would conflict with these objects, and be a dangerous precedent: nor could he see any purpose to be answered, except it was with a view to impeachment, which had not been indicated. He adds, that from his personal knowledge of the intentions of the framers of the Constitution, a treaty duly ratified by the President and Senate became obligatory; and it appears on the Journals that a proposition that no treaty should be binding that was not ratified by him, was explicitly rejected. These considerations forbade his compliance with their request.

About a week later, two resolutions suggested by the message were offered by Mr. Blount. One asserted that when a treaty stipulated regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution, as to such stipulations, on a law to be passed by Congress, and that the House had a right to decide on the expediency of passing such laws. The other resolution asserted that when, in applications of the House to the Executive for information, if within the range of its powers, the House of Representatives was not bound to state for what purpose the information was wanted.

Mr. Madison supported the resolutions in an elaborate speech, and the vote being then taken, the resolutions were carried by fifty-seven votes to thirty-five.

On the thirteenth of April, Mr. Sedgwick moved that provision ought to be made by law for carrying into effect the treaties lately concluded with Algiers, Great Britain, Spain, and the Indians.

After much altercation between the members of the opposite parties, the resolution was subjected to amendments, by which its phraseology, implying the obligation of the House to pass the requisite laws, was changed,

and the treaty with Great Britain came on for consideration after the others had been disposed of.

The feelings of both parties were raised to the highest pitch of excitement. On the part of the Federalists, it was believed that war with Great Britain would inevitably follow the rejection of the treaty; and what was scarcely less dreaded by them, a closer connection with France. On the part of the Republicans, besides the want of reciprocity in many articles of the treaty, and its surrender of some points of policy which they estimated very highly, they regarded it as tending to a rupture with France, and as affording a sure triumph to their political adversaries. The nation looked anxiously on while the leading members of the Legislature on both sides prepared for a contest pregnant with such serious consequences.<sup>1</sup>

The debate was opened by Mr. Madison. He arranged his objections to the treaty under the three heads corresponding to its declared objects. The part which related to the settlement of former differences, arising from the treaty of peace, he insisted, wanted reciprocity. The United States, he admitted, had failed to execute the article respecting the payment of their debts; but, by the present treaty, the British obtained the payment of those debts with interest. The British, on their part, had failed to execute two articles. For one of them, the negroes carried off by the British, we had obtained nothing. For the other, respecting the Western posts, we had indeed regained possession of them, but had received nothing for their detention; and the traffic with the Indians was so shackled with conditions, that the possession of the posts gave us no influence over those people, in which the chief value of the posts consisted.

<sup>1</sup> *Annals of Congress for 1796*, page 976.

He noticed the inequality which opened to Great Britain all the ports of the United States as the condition of having an unimportant province opened to them.

He animadverted on the clause respecting the navigation of the Mississippi, which was the more objectionable as the treaty itself supposes that Great Britain, by her real boundary, may have no pretensions to that navigation.

The same want of reciprocity, in the second place, was to be found in the treaty provisions relative to the rights of neutrals and the laws of nations. We had surrendered the favorite principle that free ships make free goods; and had added naval stores, and even provisions, to the list of contraband articles, to the great advantage of Great Britain and injury to the United States. This stipulation, under our engagements with France, would, moreover, involve us in difficulties with that country.

He complained that the treaty had surrendered the right of sequestration, which, for want of fleets and armies, was one of our principal means of defence. By this provision a very large amount of property would be secured to British proprietors, and but a small amount to American citizens. To have made this article reciprocal, when the United States were required to give up the right of sequestration, Great Britain should have been required to give up the right of seizing property on the ocean.

Under the third head, he pointed out the disadvantage of having surrendered the right of laying discriminating duties, by which American navigation and commerce had been greatly protected and encouraged. He dilated on the injustice of excluding the United States from an equal share in the West India trade. He urged that every other nation, in relaxing the system of colonial



monopoly, so as to permit a trade between its colonies and other countries, had allowed those countries to share in the trade; and that her monopoly was the more objectionable, as we were precluded from appealing to the self-interest of Great Britain (by means of discriminating duties) to do us justice. He showed the inequality and impolicy of gratuitously securing to Great Britain the commercial advantages granted to other nations in return for benefits received from them. As to the trade to the East Indies, we already enjoyed it, because it was beneficial to Great Britain. He regarded the threatened consequence of a war with Great Britain, pressed as she was by France, as absurd.

The discussion of the merits of the treaty being thus begun, was continued with little intermission until the first of May, and the debate was not confined to the leading members of the two parties, but extended itself to almost every one who had ventured to address the House.

The principal members who answered Mr. Madison were Messrs. Lyman, Goodhue, Hillhouse, Kittera, Tracy, Griswold, Harper, and Ames. His most conspicuous supporters were Messrs. Giles, Swanwick, Nicholas, Findley, Page, Gallatin, and Smith of Maryland.

The friends of the treaty maintained that we had no legitimate claim for the negroes carried away at the close of the War of the Revolution; they being regarded as men, and not as property; that, therefore, we had, by obstructing the collection of British debts, first violated the treaty, which justified Great Britain in retaining the posts.

Some of the members asserted, from their personal knowledge of the trade with the Indians, that the greater part of it would fall into the hands of the Americans.

As to the West India trade, they asked why we should

expect that Great Britain would give up her colonial monopoly, when Spain, Portugal, Holland, even France herself, adhered to the same policy, except when under the pressure of war? They remarked on the inconsistency of those who now maintained that no commercial treaty with Great Britain was required, but who, not long since, had wished to adopt a system of restrictions to force her into such a treaty. With respect to the compensation to be made by Great Britain for her illegal seizures, the parties interested were satisfied with that provision, and anxiously desired the ratification of the treaty.

The doctrine of free ships making free goods, they urged, was a novelty in the law of nations; nor was there at this time any treaty in which Great Britain admitted the principle, nor did France herself always conform to it. They added, that since Great Britain would, under her principles of international law, seize our provisions, was it not better that they should be paid for. As to the repugnance of some of the articles to our treaty with France, those are expressly provided for. They insisted on the impolicy of sequestration in a country needing capital and credit as much as the United States.

If we cannot grant indulgence, they urged, to another nation, then are we really reduced to a state of colonial dependence. In conclusion, they maintained that unless we could satisfy the world that we are not bound by this treaty, made and ratified according to the Constitution, we should be regarded as a faithless nation; nor would a vote of the House, when given against the President and Senate, and a great proportion of the American people, remove this imputation.

In the debates to which the British treaty gave rise, Albert Gallatin greatly distinguished himself in this, his first session. Notwithstanding the early countenance he

had shown to the opponents of the excise law, he had, by his subsequent course in moderating the insurgents, so added to the number of his friends as to be elected to Congress.

Among other objections to the treaty, he maintained that slaves being, by the law of nations, assimilated to real estate, were not a subject of booty in war. He insisted that though Great Britain would not admit the principle that free ships make free goods, it did not become us expressly to admit the opposite doctrine; and that the effect of this admission, taken in connection with our other treaties, which did not include naval stores and provisions in the list of contraband, would be to secure to Great Britain an exclusive supply of those articles during the war. He urged that while we had made to England full indemnity for every possible claim, we had abandoned every claim of our own of a doubtful nature. He admitted that if this treaty was set aside, there would be little probability of obtaining another: that granting indemnity for British spoiliations to be desirable, and that justice ought to be done to British creditors; yet if the non-execution of the treaty was to be regarded as a mere pecuniary transaction, what we should lose as indemnity would be more than balanced by the debts due to the British: that, bad as the treaty was, he would, for the sake of calming the public agitation, have been willing to put up with it, but for the conduct of Great Britain in renewing her provision order in council, and her continued impressment of American seamen. He therefore preferred not an absolute rejection of the treaty, but a suspension of it. He considered the danger of war as chimerical. War was not the interest of Great Britain, as all the supplies for her military operations in the West Indies were obtained from this country. The



cry of disunion was as groundless as that of war, from the known attachments of the people. All these cries were got up by way of appeal to the fears of the House. It was this same fear of being involved in war which had originated the negotiation : under the impression of fear the treaty had been negotiated and signed : and every imaginary evil was conjured up to frighten the House, and force it to carry the treaty into effect.

This speech of Mr. Gallatin was specially answered by Messrs. Gilbert of New York, and Tracy of Connecticut. Gallatin had made himself peculiarly obnoxious to the Federalists, not merely by having joined the party of their opponents, but by having taken an active part in the early opposition to the excise in Pennsylvania : and though he subsequently amply redeemed this error by acknowledging it, and by his efforts to bring about submission to the laws, his present opposition to the administration prevented his first transgression from being forgotten or forgiven. It was distinctly alluded to by Mr. Tracy in the most offensive language, and his foreign origin noticed in a style as undignified as ungenerous.

But the task of defending the treaty, and of inducing the House to tolerate, if they could not approve it, devolved on Fisher Ames, of Massachusetts. He had always maintained a high reputation in the House for his ability and eloquence, as well as his courtesy and liberality ; but, on this occasion, he surpassed himself. He had been long laboring under a pulmonary disease, which was evidently hastening him to the grave ; but his party and patriotic zeal rose superior to physical weakness, and imparted to him strength to make a speech which won reluctant praise even from his opponents, and so appealed to the personal and party sympathies of his friends, as to raise their admiration to the liveliest

enthusiasm. His language was in general at once classical and impassioned, and if it was occasionally more rhetorical than a severe taste could entirely approve, it was not too much so for those to whom it was addressed. He imputed the violent opposition to the treaty to the passions and prejudices against Great Britain, apparent from the repugnance to it manifested before its contents were known; and to the strong interest taken in the French nation since her revolution. Nothing, he said, that the treaty could have contained would, in this temper of the American people, have satisfied them. As to foreign influence, he showed that France possessed it in a more ample degree than Great Britain, by her strong appeal to their sympathies, and enthusiasm in favor of their revolution. He regarded the rejection of the treaty as a breach of national faith; dwelt upon the loss of five millions of dollars to the merchants for their captured property; on the renewal of Indian warfare, and the detention of the posts. He portrayed, in glowing tints, the horrors that war would inflict on the frontier settlers. "By rejecting the posts, we light the savage fires—we bind the victims. This day we undertake to render an account to the widows and orphans whom our decision will make."

War with Great Britain he considered as the inevitable consequence of rejecting the treaty. Even if she were disposed to put up with the consequent state of things, this nation would not bear it. The indignation at her wrongs in 1794, which then called aloud for war, will now be reversed. He depicted the dangers to the unbraced structure of our government. His opposers acted, he said, as if they believed our union, our peace, our liberty, were invulnerable and immortal. He asked if a real American could look at the prosperity of the country without a

desire for its continuance; reminded them again of the anxieties felt in 1794 for the threatened peace of the country, and that the present treaty secured to them that inestimable blessing. It gains to the country every thing, because it confirms our neutrality, by which our citizens are profiting so much. "This treaty, like a rainbow on the edge of the cloud, marks to our eyes the space where the storm is raging, and affords, at the same time, the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale; it will become a baneful meteor, portending tempest and war."

He dilated on the immense gains of neutrality; and deplored the policy which would exchange this state of unexampled prosperity to incur danger which threatened not only the peace of the country, but the existence of the government. "There is, I believe, no member who will not think his chance to be a witness of the consequences greater than mine. If, however, the vote should pass to reject, and a spirit should rise, as it will, with the public disorders to make confusion worse confounded, even I, slender and almost broken as my hold on life is, may outlive the Government and Constitution of my country."

A member in the opposition — Mr. Venable — moved an adjournment, that the House should not vote under the influence of a sensibility which their calm judgment might condemn.

The next day the resolution was carried through the Committee of the Whole by the casting vote of the Chairman; and it prevailed in the House by the vote of fifty-one to forty-eight, there being a majority of ten in the ranks of the opposition. It seemed that Ames's eloquence obtained the rare triumph of disarming and converting



even party prejudice, commonly the most intractable of all materials.

Of the votes against the treaty, there were only four from New England; and of the votes in favor of it, there were only four from the States south of the Potomac. Of the members from the Middle States, a large majority were for it.

An act soon afterwards was passed for regulating the intercourse with the Indians. It defined a boundary line<sup>1</sup> beyond which no citizen of the United States was to pass either for hunting or feeding cattle, nor south of the Ohio for any purpose whatever, without a passport from some person authorised to give one by the President. By this line about one-half of the territory between the Mississippi and the Atlantic was secured to the Indians. The President might remove by force any persons attempting to settle west of the boundary line; and intruders were punishable by fine and imprisonment. In case of robbery or other injury to the property of Indians, the offender, besides being punished, was to make reparation, and if he had no property, they were to be indemnified by the United States; provided, however, that there had been no attempt of the sufferer or his tribe to take private revenge.

In case of injuries by Indians, application for redress was to be made through the Indian agents to the President, who was to use his discretion in the measures of redress: indemnity to be made to the sufferers by the United States, under a like condition, that they had not taken redress into their own hands.

Indians caught within the territory of the whites, and

<sup>1</sup> For this boundary line, extending from Lake Erie to the River St. Mary's, in Georgia, see the act of May 19th, 1796.

whites within the Indian territory, were subject to summary trial.

No one could trade with the Indians without license, nor buy of them any thing except skins or furs. All sales of Indian lands, except by treaty with the United States, were declared to be void.

The President was also authorised to furnish them with domestic animals, implements of husbandry, &c., and to appoint agents to reside among them, to aid and instruct them, at an expense not exceeding fifteen thousand dollars a year.

By another act, the President's suggestion of public trading-houses was carried into execution, and one hundred and fifty thousand dollars was appropriated for that purpose.

Under this wise and humane system, these people began to make advances in civilization, and some of them continued to be steadily progressive.

An act was also passed for the sale of the public lands north of the Ohio, now that there was peace with the Indians in that quarter. A system for surveying and laying out these lands into townships of six miles square, one-half of each of which was to be subdivided into thirty-six parts of a mile square, and the alternate townships were to be divided into quarter sections of one hundred and sixty acres each. They were to be sold occasionally at public auction, but the price was not to be less than two dollars per acre.

This system was adopted for the purpose of preventing the overgrown domains which might be acquired by capitalists, and which would not only impede or retard the settlement of these public lands, but lay the foundation for a future landed aristocracy.

As American seamen were often impressed by British

cruisers, under the pretext that they were British subjects, from whom that Government claimed an indefeasible allegiance, Congress, by way of checking the evil, passed an act which authorised the Government of the United States to appoint two or more agents — one to reside in Great Britain, the others at such places as the Executive should select, to investigate and report to the State Department all cases of impressment, with authority to afford relief to the persons illegally impressed; for which purpose fifteen thousand dollars were appropriated. Collectors were required to grant certificates of citizenship to all American seamen, and captains of vessels to make protests of impressment, and transmit them to the Government.

In consequence of the pacification with the Indians, the military establishment was reduced to two thousand eight hundred men, consisting of the corps of engineers and artillerists, two companies of light dragoons, and four regiments of infantry.

The three frigates ordered to be built in 1794 not having been yet finished, the further completion of them was earnestly resisted by the opposition; but a small number of that party from the maritime cities, deeming a navy an essential protection to foreign commerce, voted with the Federalists, and the appropriation was made.

This was one of the points in which the Republican party may be pronounced to have been clearly wrong, as their policy has been since condemned by their own party. The three frigates since so conspicuous in our naval annals — the Constitution, the United States, and the Constellation — were then ordered to be built.

The act of 1789, which fixed the compensation of the members of Congress at six dollars a day, had, by



way of compromise between the two Houses, allowed the Senators seven dollars a day after the fourth of March, 1795. A new bill on the subject put the members of the two Houses on the same footing, and proposed to substitute an annual salary instead of daily pay. This proposition, however, was rejected, and a bill was passed giving six dollars a day to all.

Mr. Madison offered a resolution for an inspection and survey of the great post-road from Maine to Georgia, which having passed, a committee was appointed to bring in a bill; but it was not acted on. This seems to have been the first step taken by Congress towards making roads under the power given by the Constitution concerning the post-office, and which, about thirty years afterwards, became one of the most agitated and interesting constitutional questions.

The revenue and the expenditures of the Government this year were between six and seven millions of dollars; but as a part of the public debt was then payable, a loan of five millions of dollars was authorised.

Tennessee was admitted into the Union at this session, not, however, without opposition from the Federalists, thirty of whom voted against it to forty-two in favor of it. Its population, by a census taken for the occasion, was sixty-seven thousand whites, and ten thousand slaves. After the bill for admission passed the House, the Senate renewed the opposition, and endeavored to postpone the bill, under the pretext of taking the census by the Federal Government; but, on a conference between the two Houses, the bill finally passed. The population of the new State was divided into two distinct settlements in its eastern and western portions, which were distant from each other more than one hundred miles, and

separated by a territory still owned and inhabited by Indians.

Congress adjourned on the twenty-ninth of June, 1796.

It was soon found by the administration that, in settling their difficulties with Great Britain by the treaty, they had increased those with France — a result that probably not a few of the Federal party wished, as well as expected, and which others naturally and justly regarded as the least of the alternative evils presented to their choice.

The President, at the time that he recalled Gouverneur Morris, in compliance with the request of the French Government, had written to him a letter expressive of his continued esteem, and of his approbation of his diplomatic course; but this letter having fallen into the hands of a French cruiser, increased the discontent and suspicion of that Government. It was hoped that as Monroe was known to be a warm friend of the French revolution, and one of the party most opposed to Great Britain, this would tend to regain the confidence of the French Government, and revive its amicable feelings towards the United States. Mr. Monroe himself was thoroughly disposed to second these views of the administration, and he had qualities that were likely to make his effort successful. He was most credulous and confiding towards those he liked, and equally suspicious towards those with whom he differed. He accordingly went to France with a full persuasion that the ruling party in that country was honest and sincere; that they really had the same devotion to the principles of civil freedom which he himself felt; and that nothing more was necessary for the success of his mission, and the restoration of harmony between the two nations, than to satisfy the French that General Washington, notwithstanding

the British treaty, was still the friend of France, and truly attached to republican principles.

Monroe reached France in 1794, before Jay's treaty was negotiated, and not only on his arrival, but for more than a year afterwards, labored zealously to bring about a good understanding between the United States and France, and to satisfy the French authorities that General Washington was their sincere friend. In this he met with but partial success. Much of the prejudice against the United States he was unable to remove, and the consequence was that American commerce became the prey of their cruisers. He still persevered in his conciliatory course, for his heart was in it; and he so far gained the confidence of the French, that it was proposed by the Convention to give the American Minister a public reception.

He readily accepted the invitation, and presented an address to the Committee of Public Safety, in which he warmly eulogises French valor in the field, and French wisdom and firmness in council. The President's reply was also in a style of inflated compliment to the United States. "The French people," said he, "have not forgotten that it is to the American people they owe their initiation into the cause of liberty. It was in admiring the sublime insurrection of the American people against a nation once so haughty, now so humbled; it was in themselves taking arms to second your courageous efforts, and in cementing your independence by the blood of our brave warriors, that the French people learned in their turn to break the sceptre of tyranny, and to elevate the statue of liberty on the wreck of a throne, supported during fourteen centuries only by crimes and corruption.

"But it is not merely a diplomatic alliance—it is the sweetest, the most frank fraternity that must unite us;



and this union shall be forever indissoluble, as it will be forever the dread of tyrants." After adding more in this strain of affectation and extravagance, then in vogue, he says, "I am impatient to give you the fraternal embrace, which I am ordered to give in the name of the French people. Come and receive it in the name of the American people, and let this spectacle complete the annihilation of an impious coalition of tyrants." The embrace, or *accolade* as it was called, was accordingly given.

After this unwonted theatrical display of national cordiality, Mr. Monroe was offered a "national house," in "that" quarter of the city which he should select, as a place of residence; but his acceptance was forbidden by the Constitution,<sup>1</sup> as well as by propriety, though the former was the only reason assigned for his refusal.

In Mr. Randolph's notice of this public reception, he bestows a slight reproof on the fervor of the language used by the Minister, and he remarks, "Under the influence of these sentiments, we should have hoped that your address would have been so framed, as to leave heart-burnings nowhere:" and again, "We do not perceive that your instructions have imposed upon you the extreme glow of some parts of your address." He subsequently remarked, "You have it still in charge to cultivate the French republic with zeal, but without any unnecessary eclat."

But the Minister is obnoxious to a more serious reprehension in a subsequent part of the letter. He had declared, in his memorial to the Committee of Public Safety of the third of September, 1794, that he had not been instructed to complain of the decree which violated the twenty-third and twenty-fourth articles of the treaty between France and the United States. "On the con-

trary," he adds, "I well know that if, upon consideration, after the experiment made, you should be of opinion that it produces any solid benefit to the republic, the American Government, and my countrymen in general, will not only bear the departure with patience, but with pleasure."<sup>1</sup>

In his letter to his Government,<sup>2</sup> he suggests that the French decree might have been tolerated, lest a demand for rescinding it might produce a call for the guarantee.

To this the Secretary replied that the redress he was instructed to apply for could not possibly be obtained unless the decree were rescinded; and if the fear of the guarantee was thus to operate, he could never claim compensation for any infraction of the treaty. He adds, that the omission of the French Government to ask the fulfilment of the guarantee, is a proof that their policy did not make it desirable.

The Secretary says he is unapprised of any data upon which Mr. Monroe could have inferred that the American Government and people felt indifference on this subject; "and undoubtedly the President himself would not undertake that the people of the United States would bear with patience a departure from stipulations which are generally believed to be important to us." He is therefore urged to remonstrate against the decree without delay; but in asserting the rights of his country, it is not wished "that he should swerve from the line of conciliation."

In the Minister's despatches of the first of February, 1795, he defends himself against the reprehensions of the Government. He refers to the state of things when he arrived; the prejudice entertained against the views and feelings of the Government of the United States; the

<sup>1</sup> Monroe's View, page 34.

<sup>2</sup> Ibid. page 116.

importance of regaining their confidence; and affirms that the course he took, so far from having a bad effect on Mr. Jay's negotiation, contributed to further it; Great Britain being not disposed to make a treaty with the United States but in consequence of the successes of France and of her belief in the good understanding between that country and the United States. He was thus justified in the warm language he had used, and in giving it publicity.

On the third charge of our toleration of the breaches of the treaty, he merely urges that a generous policy was better calculated to produce a good effect in France than a strict one.<sup>1</sup> He denies that he conceded the point, or showed an indifference to it. He insists on the success of his efforts to conciliate the French Government, and remarks, "I now declare that I am of opinion, if we stood firmly on that ground [the possession of their confidence unimpaired], there is no service within the power of this republic to render that it would not render us, and upon the slightest intimation."

It appears from Mr. Monroe's despatches that the French Government manifested from the first much anxiety concerning the treaty with England, which was greatly increased by the strict secrecy observed as to its contents, and by the delay of submitting it to the Senate, until the eighth of June.

In January, 1795, the French Government, as if to take from the United States the plea that the treaty of 1778 was violated by France, enacted a decree by which the articles respecting enemy's goods and contraband (embraced in the twenty-third and twenty-fourth articles), were again recognized, and to have full force and effect.

<sup>1</sup> Monroe's View, page 82.



At first, hopes were entertained that the British treaty would not be ratified, from the doubts expressed by Mr. Randolph to Mr. Monroe. But after it was published, the French authorities both in France and the United States regarded it as making concessions to England highly injurious to France, as well as incompatible with their treaty stipulations with her; and at length, in February, 1796, one of the members of the new French Executive told Mr. Monroe that from the moment the treaty was ratified, the Directory had considered the alliance between France and the United States as ceasing to exist, and that they should appoint an Envoy Extraordinary to communicate this inference to the American Government. The Minister made some unavailing efforts to alter this decision, and on pressing the Directory to state their causes of complaint against the United States, on the eleventh of March, they sent to the American Minister an exposition of their "complaints," arranged under five heads, in support of which they stated particular facts, and made full comments.

First. They complain of the non-execution of treaties in the following particulars:

1. That American Courts took cognizance of the prizes made by French privateers, notwithstanding the prohibition of the treaty.

2. The admission of British vessels-of-war into the United States, contrary to the seventeenth article, of the treaty with France.

3. The non-execution of the consular convention made between the two nations in two important particulars.

4. The arrest in Philadelphia of the captain of the corvette *Cassius* for an act committed by him on the high seas, contrary to the nineteenth article of the treaty.

They complain, secondly, of the impunity of the outrage committed by the English ship *Africa*, and the English Vice-Consul on the republic, in the person of its Minister, the citizen Fauchet.

Thirdly. The treaty concluded with Great Britain, in departing from the principles of the armed neutrality during their war of independence, and that they had extended the list of contraband even to provisions.

To all these complaints Mr. Monroe returned an answer on the fifteenth of March, justifying or excusing the course of the United States.<sup>1</sup>

In a subsequent letter from the Minister of Foreign Affairs to Mr. Monroe, dated the seventh of July, 1796, he again refers to the British treaty, and says that "time had sufficiently ripened the points that were then in discussion (the fifteenth of March), and far from being enfeebled, our complaints against that treaty have acquired since, in our estimation, new force." He says the Directory "has seen in this act, concluded in the midst of hostilities, a breach of the friendship which unites the United States and this republic; and in the stipulations which respect the neutrality of the flag, an abandonment of the tacit engagement which subsisted between the two nations upon this point since their treaty of commerce of 1778."

The Minister of the United States replied to the Minister of Foreign Affairs on the fourteenth of July, 1796, in which he not only vindicates the course of the United States, but assails that of France in setting aside by a decree the very articles of the treaty now in question: in consequence of which, fifty American vessels had been brought into French ports, their cargoes taken from the owners, who are yet unpaid; and eighty others embar-

<sup>1</sup> Monroe's View, page 324.

goed at Bordeaux, and detained there more than a year. He complains also that no compensation had been made for supplies to the French West Indies, and for numerous spoliations; and he takes credit for his forbearance in not bringing forward these complaints before: nor does he at this time press those claims, but merely communicated them as important facts which ought to be known and considered by the present Government of France.

To have urged those acts of the French Government, so injurious to the United States, as well as in direct conflict with the treaty, and to have at the same time tolerated, if not excused them, seems to have been the most objectionable part of Mr. Monroe's diplomatic course. He appears to have estimated the disinterested generosity of those with whom he was negotiating by his own, without recollecting how little these sentiments enter into the minds of politicians and diplomatists, unless they are also coupled with national interests.

On the thirteenth of June, 1796, Mr. Pickering, now Secretary of State, wrote a severe letter of reprehension to Mr. Monroe. He says that the views of the Government had been communicated to him solely to furnish him with the means of removing objections to the treaty, and dispelling the jealousies of the French, both of which he had stated to exist. His failure to use those means had therefore greatly surprised the President. He adds, that, after his audience with the Directory, in which he had succeeded in inducing them to suspend the proposed extraordinary mission to the United States, from this favorable result, the happiest consequences might have been expected from the full communications he might then have made, and which he had long had the means of making in vindication of the measures of the



United States. It was to be regretted that they were not made — even so late as the twenty-fifth of March. The President trusts that those explanations have been since given, and that they have been satisfactory; but if not yet made, that they shall be no longer delayed. Written communications are deemed the most eligible, and are required to be used by the Minister.

On the fourth of September, Mr. Monroe answers this letter of Mr. Pickering's. He defends his course with earnestness and warmth. He says the delay of the French Government in manifesting its discontent should lead to a directly opposite inference from Mr. Pickering's. He deemed it more prudent to remain silent than to provoke discussion, or to anticipate dissatisfaction on their part: that, before the fifteenth of February, no complaint was made to him. He then details the result of an informal conference with the members of the Directory, in which they renewed their former objections to the British treaty, and he his former vindication of the United States.

On the twenty-first of the same month, the American Minister writes to the Secretary of State, that, in answer to his inquiries about rumored attempts of the French to possess themselves of Canada, Louisiana, and Florida, the French Minister of Foreign Affairs informed him that they were not anxious about Canada, but merely wished to separate it from England; and that, as to Louisiana, if they took it, it would only be to keep the British from it, in case of a war with Spain. He also states that the French Government had issued an order to their cruisers to seize British property in neutral bottoms.

The American Minister wrote to the French Minister of Foreign Affairs, inquiring into this order for seizing enemy's property in American vessels: to which, on the

sixth of October, he had received no answer. Instead of a reply, he received a note couched in a very insulting tone, concerning the prosecution of the late Governor of Guadaloupe in the United States Courts, and which threatened reprisals if those suits were not dismissed.

On the seventh of October the Minister of External Relations wrote to Mr. Monroe that the Executive Directory had suspended the functions of the Minister from France to the United States,<sup>1</sup> and that they had passed a decree, of which he sends a copy, whereby the armed ships of France will treat the United States as these suffer the English to treat them. He then remarks, "but, citizen Minister, you know too well from what side the first blow was given to that friendship which our two nations had sworn to:" and he adds, "that the ordinary relations subsisting between the two people, in virtue of the Convention and treaties, shall not on this account be suspended. The Consuls will remain to superintend them."

"The Federal Government is too enlightened not to have foreseen all the results of that treaty, and no doubt too just to desire that its whole weight should fall on the French republic. It shall not be the fault of the Executive Directory if the political relations between the two nations be not speedily re-established."

This note was replied to by Mr. Monroe, on the twelfth of October. He expresses lively regret at the course pursued by the French Government; but he trusts that the discontent will be transitory, and that he shall soon witness a restoration of harmony. He shall add nothing at present on the subject of the complaints of France, because it would be unprofitable, and would not accord with the respect due to his own Government, whose further orders he shall await. He expresses his sense of personal obligation for their attention to his

several communications, as well as for their liberal sentiments towards himself.

On the twenty-second of August, 1796, Mr. Pickering writes to Mr. Monroe, saying that the French Minister's exhibition of his complaints on the ninth of March, and Mr. Monroe's answer to them, had been received, and sent to the President at Mount Vernon : that, before this despatch had arrived, the President had decided on sending a new Minister to Paris, and had tendered the appointment to General Charles C. Pinckney, of South Carolina, who had accepted it. Mr. Pinckney would be the bearer of his letters of recall. He refers to his own letter of the thirteenth of June, which will manifest the "uneasiness and dissatisfaction" of the President, and explain the causes of both.

It seems that Mr. Monroe's letter to the French Minister, of the fourteenth of July, had not been received, when his letter of recall was written. The great and, as it may seem, undue forbearance towards the French, exhibited in that letter, had, then, no influence on the Government, but a dissatisfaction at the general tenor of his course. It is always hazardous for any administration, in its intercourse with other nations, to appoint one who has not its confidence, and who belongs to a different political party ; and finding their error, they were determined on correcting it, without waiting for the Minister's defence of his course. He afforded no subsequent ground for his recall, as strong as the contents of his letter of the third of September, 1794, in which he stated that the American people and Government would bear their departures from the treaty of 1798 "not only with patience, but with pleasure."<sup>1</sup>

Mr. Pinckney was introduced by Mr. Monroe to the Minister of Foreign Affairs, on the ninth of December,

<sup>1</sup> Monroe's View, page 34.



and two days later that Minister informed Mr. Monroe that the Executive Directory would no longer recognise nor receive a Minister from the United States, until the grievances of the French Government had been repaired; remarking that this measure was not opposed to the continuance of the affection between the French republic and the American people; an affection which, he says, Mr. Monroe had lost no means of cultivating.

In Monroe's address to the Directory, on taking leave, he expressed himself with grateful courtesy towards the French Government, and with respect towards his own, with lively wishes for the prosperity of the republic, and for harmony between the two nations.

The answer of the Directory was in bad temper and bad taste. They say, "that the Minister's recall offers a strange spectacle to Europe. France, rich in her freedom, surrounded by the train of her victories, will not stoop to calculate the consequences of the condescension of the American Government to the wishes of its ancient tyrants. The French republic expects, however, that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France — that the American people will find in the French that republican generosity which knows how to grant peace, as well as to cause its sovereignty to be respected."

Before Monsieur Adet, who had succeeded Fauchet as Minister of the United States, took his leave, he made a remonstrance that the American Government had refused, in conformity with the British treaty, to permit the sale of French prizes in the United States; and in October, he communicated the decree of the second of July, authorising the seizure of American vessels; and he subsequently published in the newspapers a proclamation, by

which all French citizens in the United States were called upon to wear the tri-colored cockade, on pain of not having the consular protection. It was generally worn by French citizens, and by not a few Americans, whose overflowing zeal for France made them forgetful of the respect due to their own nation.

He sent also a note to the State Department, on the fifteenth of November, 1796, demanding the execution of that contract which assured to the United States their existence, "and at the same time he announces the resolution of a Government terrible to its enemies, but generous to its allies."<sup>1</sup>

He proceeded to point out the injuries of which the French Government complains: that French vessels-of-war had not been permitted to bring their prizes into the United States, agreeably to the seventeenth article of the treaty of 1778, and he refers to particular cases; and that the English vessels have been suffered to enjoy advantages interdicted by the same seventeenth article.

He resists the construction put on the seventeenth article by the American Secretary of State. He then complains of the treaty with England, which combines every thing that is injurious to France, and profitable to England: for proof, he refers to the articles respecting contraband, the right of seizing enemy's property, &c. He concludes with an appeal to the popular resentment felt against England during the Revolution, in that style of puerile declamation which characterized the French patriots of the Revolution.<sup>2</sup>

This note was published in the *Aurora*, a Democratic journal of Philadelphia.

In September, General Washington, in pursuance of a

<sup>1</sup> II. State Papers, page 196.

<sup>2</sup> Ibid. page 214.

purpose long entertained, sent forth a farewell address to the people of the United States, in which he endeavored to render all the weight which he still held in the esteem and affection of his fellow-citizens more promotive of the solid and lasting interests of his country, by giving them the best counsels his experience, his sound judgment, and love of country had suggested, to guard them against those errors to which they might be deemed most liable, and to which the Government might be most exposed. It is too familiar to all to require a more particular notice.

Much has been said about the authorship of this address, which many first ascribed to Mr. Madison, and others since have yet more confidently ascribed to Mr. Hamilton. It appears, from undoubted evidence, that he had applied to Mr. Madison to draft such a paper on the hints which he suggested; and further, that, to a small extent, in the published address is actually incorporated part of Madison's draft. About Hamilton's share there is more uncertainty. He seems to have given the paper its present form; but how much of the materials are his, and how much are Washington's, cannot now be ascertained; but since the finished address conforms, in the main, to the suggestions first made to Madison, and since, according to the natural effect of long meditation, the topics would increase in number, and be viewed in more varied lights and relations, it seems fair to infer that the subsequent additions were substantially Washington's, and that Hamilton merely reduced them to form. Nor was it necessary to suppose even this, but for the testimony of Mr. Jay,<sup>1</sup> since there is nothing in the address which is superior in force, clearness, or elegance, to some of the later productions of Washington's pen, whose style, great exercise and assiduous care, had improved

<sup>1</sup> XII. Sparks's Washington, page 395.



to a degree, which, considering the small advantage he had derived from early cultivation, was truly surprising.

This address, from such a man, has become more and more the test of orthodoxy to American patriots, and it seems likely to prove at all times an efficient appeal to the hearts of Americans in favor of union, and the principles of the Federal Constitution.

In the autumn, the Presidential election took place, and the Federal candidates for President and Vice-President were John Adams, and Thomas Pinckney of South Carolina; on the part of the Republicans, Mr. Jefferson, and next to him, Aaron Burr of New York, seemed to be the most popular. The Federal party were somewhat divided about their candidate, while the mass of them were in favor of Adams, the Vice-President, Hamilton and his friends gave a preference to Thomas Pinckney, lately Minister to England. The result was, that John Adams received seventy-one of the one hundred and thirty-nine votes, and was consequently elected President; Jefferson received sixty-eight votes, which being the next highest, made him Vice-President; Pinckney, the other Federal candidate, having received but fifty-nine votes.

The election was a close one; and if Pennsylvania, Virginia, and North Carolina, had not each given Adams one vote, though all the other votes of those States were given to Jefferson, their respective numbers would have been reversed, and Jefferson had been the President, and Adams had continued to be the Vice-President. New York, New Jersey, Delaware, Maryland, and the New England States gave an unanimous vote for Adams. Pennsylvania, the Western States, and Southern States, voted unanimously for Jefferson, with the exception of the three votes that have been mentioned. Had the

votes of Virginia and North Carolina been by general ticket, as they subsequently were, or by the Legislature, Jefferson and Adams would have received the same number of votes, in which case, the election devolving on the House of Representatives, although there was a numerical majority of Republican Representatives, there was a majority of Federal States, and Adams would consequently have been elected.

The President, in his last opening speech to Congress, congratulated them on the condition of the United States, and on the success of that humane system which had been adopted towards the Indians. After adverting to the treaties with Great Britain, with Spain, and with Algiers, and the measures adopted by the United States in conformity with them, he spoke of a navy as indispensable to so commercial a nation as the United States, more especially as the most guarded neutrality would not defend them against the depredations of the belligerents, and as such means of defence often prove the best security against war: that the trade to the Mediterranean, without a protecting force, would always be insecure. He therefore recommends the providing materials for the building and equipping ships-of-war, and the encouragement of such manufactures as are necessary for the public defence. Institutions for the promotion of agriculture are also strongly recommended. He urged, in like manner, the advantages of a national university, and of a military academy, on both of which he dilates at some length. He then mentions the expediency of augmenting the compensation to the higher officers of the Government, if we would not too much narrow the field of choice, and, contrary to the principles of republican government, exclude from public trusts all who are not in possession of wealth.

He adverted to the difficulties with France, and to the injuries sustained from French cruisers. He affirms his constant and earnest efforts to preserve harmony with that republic, which should still continue, but that this subject would be resumed in a special message. In this last address he takes occasion to refer to the success of the experiment of the Federal Constitution.

The answers of both Houses were respectful and cordial. But while that of the Senate passed unanimously, that of the House encountered opposition. Mr. Giles led the way in objecting to the address. He said if the committee had merely spoken of the patriotism, virtue, and integrity of the President, they might have obtained an unanimous vote, but that he could not bear testimony to the wisdom and firmness of the measures of the administration without inconsistency, and casting a censure on himself, as he had for some time opposed those measures. He thought the difficulties in which we were now involved with France were a proof that the course of the administration had not been wise: nor could he consent to express regret that the President had retired from public life. He wished him happiness on his retirement, but he believed there were a thousand citizens as capable of discharging the duties of Chief Magistrate as he.

Several amendments were proposed to the address, which gave rise to a debate that continued for two days. A proposition to strike out a passage which expressed the wish that his example might be the guide of his successors, and thus, after being the ornament and safeguard of the present age, become the patrimony of our descendants, received the votes of twenty-four against fifty-four; and on the final vote for the address, the vote was sixty-seven yeas to twelve nays. All of the opponents were



from the South and West, except Edward Livingston of New York, and Samuel Maclay of Pennsylvania.

On the twenty-first of December, 1796, the Committee of Ways and Means had been directed to report the measures which ought to be taken relative to the balances found to be due from certain States to the United States.<sup>1</sup> That Committee made a report on the twenty-sixth, which was considered and discussed from the thirtieth of December to the fifth of January, when the House adopted two resolutions. By the first, the President was required to give notice to the debtor States of the sums in which they were severally indebted, with an earnest request that they would cause speedy provision for paying the same; which resolution was passed by fifty-seven to twenty-seven. The second provided that payment might be made in the several public stocks of the United States, in the same proportion as had been paid by them to the creditor States; to which no opposition was made. A third resolution, that all transfers of the public debt by any of the debtor States, or by any person for their benefit, were to be suspended until the further action of Congress, being thought to derogate from the rights and dignity of the States, was rejected by sixty-two to twenty-three.

In a special message some weeks later — the nineteenth of January — the President presented a very full statement of the present relations of the United States with France. A collection of all the letters and papers relative to the subject had been made, to enable Mr. Pinckney to enter into explanations with the French Government; and these papers, together with a letter of instructions from the Secretary of State to Mr. Pinckney, were also communicated.

These papers comprised the whole correspondence during the years 1794, 1795, and 1796, between, first, Mr. Fauchet, and then Mr. Adet, with the American Secretaries of State; and they almost entirely consist of complaints against the United States, in their conduct to France, and the vindication of the United States either by Randolph or Pickering. Those complaints were arranged by Mr. Pickering under three heads. First. In their abandonment, by the United States, of their neutral rights, in not insisting on the principle that free ships make free goods, and in extending the list of contraband articles. Second. In violations of the treaty of 1778, especially the seventeenth and twenty-second articles: and, Third. By the treaty recently made with Great Britain.

Though these constituted the subject of warm and reiterated complaints, others of very inferior dignity and importance were also urged by these zealous envoys, a portion of which were scarcely consistent with the honor of their nation, or their own self-respect. They urged:

First. That the Government of the United States had made a question whether it would execute the treaties with France, or receive the agents of the proscribed princes, (alluding to the discussions of the Cabinet in 1793).

Second. "It made an insidious proclamation of neutrality."

Third. By its *chicaneries*, it abandoned French privateers to its courts of justice.

Fourth. "It eluded the amicable mediation of the Republic for breaking the chains of its citizens at Algiers."

Fifth "Notwithstanding the treaty stipulations, it allowed to be arrested vessels of State."

Sixth. "It suffered England, by insulting its neutrality, to interrupt its commerce with France."

Seventh. "Notwithstanding the faith of treaties, it gave an asylum to these same English, who, after having insulted her flag, and pillaged her citizens, came also to brave the American people in their ports, and to take a station whence to cruise, on a favorable opportunity, against the French."

Eighth. "It might be said that it applauded their (the English) audacity; it had all submission to their will; it allowed the French colonies to be declared in a state of blockade, and its citizens interdicted the right of trading to them."

Ninth. "It eluded all the advances made by the republic for renewing the treaties of commerce, upon a more favorable footing to both nations; it excused itself on the most frivolous pretexts, whilst it anticipated Great Britain by soliciting a treaty in which, prostituting its neutrality, it sacrificed France to her enemies; or rather, looking on her as obliterated from the map of the world, it forgot the services she had rendered it, and threw aside the duty of gratitude, as if ingratitude were a governmental duty."

To this exaggerated statement of grievances, the Minister adds those respecting the disposition made of the French flag, and the failure in an American almanac to give precedence to the French diplomacy; and he refers, lastly, to the complaints made by the Minister for Foreign Affairs, which are not comprehended in the above catalogue. These are:

That the consular convention between the United States and France has been rendered illusory in two particulars; and

In the impunity of the outrage committed on the repub-



lic in the person of its Minister, the citizen Fauchet, by the English ship *Africa*.

All these complaints are fully considered and fairly answered, so as to sustain the remarks of Pickering, "that there had been no attempt in the Government of the United States to violate our treaty, or weaken our engagements with France: that whatever resistance it had opposed to the measures of her agents, the maintenance of the laws and sovereignty of the United States, and their neutral obligations, have rendered indispensable: that it has never acquiesced in any acts violating our rights, or interfering with the advantages stipulated to France; but, on the contrary, has opposed them by all the means in its power: that it has withheld no succors from France that were compatible with the duties of neutrality to grant: that, as well by their independent political rights, as by the express provisions of the commercial treaties with France, the United States were at full liberty to enter into commercial treaties with any other nation, and consequently with Great Britain: that no facts manifesting a partiality to that country have been, and that none such can be produced."<sup>1</sup>

If some of the facts stated by the French envoys wear the appearance of greater promptitude to act against the violations of the rights of the United States by French cruisers, than against those committed by the British, it must be remembered that those violations which were committed within the jurisdiction of the United States, were more frequently committed by the French than the English, from the known predominance of popular feeling in favor of the French and against the British, and because, when they were committed by the English — as when their ships-of-war entered the waters of the

<sup>1</sup> II. State Papers, page 186.

United States with their prizes—the power of the Government to punish such infractions was utterly inadequate beyond ordering out the militia.

In truth, it was known that the people of the United States were at that time divided into two parties, which were violently opposed to each other as to their foreign relations: one of them with a warm attachment to France and her revolution; the other, less numerous, but no less zealously attached to England—and that most of the members of the administration belonged to this last-mentioned party. All its acts, therefore, were scanned with a jealous eye by the partisans of France; and many of the accusations of the French Government and its agents were but echoes of the charges brought forward in the opposition journals. But General Washington, while he was determined to secure his country, if possible, from the evils of war, was at the same time equally determined to obtain this advantage by no sacrifice of national duty or honor; and nothing more shows his firmness, and steadiness of purpose, as well his thorough sense of moral rectitude, than his conduct towards the French and English at this period. With equal hand he aimed to be just towards both, and to submit to injustice from neither.

It being found, by the report of the Secretary of the Treasury, that the revenue was inadequate to the existing demands on the Government, the Committee of Ways and Means recommended an additional impost on salt, wine, spirits, tea, sugar, and stamps, as well as a direct tax on windows; which gave rise to much discussion.

A tax on lands having been proposed, according to the recommendation of the Secretary, the motion prevailed by forty-eight votes to thirty-nine.

The policy of direct taxation was subsequently very

copiously, but irregularly discussed; but while a majority appeared in the debate to be in favor of direct taxes, there was a manifest reluctance to carry their theory into execution, and no direct tax was laid at this session, in conformity with the report of the Secretary of the Treasury in the preceding year.

An increase of the salaries of the higher officers of the Government, to the amount of twenty-five per cent., was carried by fifty-seven votes to thirty-two.

A bill having passed both Houses for reducing the military establishment of the United States, the President for the second time exercised his constitutional veto, urging four objections which he had to the bill. These were, that the law would do injustice to two companies; would be injurious to the public service; did not comport with economy; and would deprive the regular army of cavalry. On a reconsideration by the House, there were fifty-five in favor of it, and thirty-six against it; so that the former number not being two-thirds of the whole, the bill was rejected.

On the twenty-seventh of February, the Speaker laid before the House a report of the Secretary of State, respecting the spoliations on the trade of the United States by the French republic, on a memorial referred to him by the House on the seventh of May.

These injuries he classed under seven heads:

First. Spoliations and maltreatment of their vessels at sea by French ships-of-war and privateers.

Second. A long-continued embargo on their vessels at Bordeaux, in 1793 and 1794.

Third. The non-payment of bills, and other evidences of debts, drawn by the colonial governments in the West Indies.

Fourth. The seizure or forced sales of the cargoes of



their vessels, and the appropriating them to public use, without paying for them, or paying inadequately, or delaying payment for a great length of time.

Fifth. The non-performance of contracts made by the agents of the Government for supplies.

Sixth. The condemnation of their vessels and cargoes under such of the marine ordinances of France as are incompatible with the treaties subsisting between the two countries.

Seventh. The captures sanctioned by a decree of the Convention of the ninth of May, 1793, which declared enemy's goods on board of their vessels lawful prize, and directed French ships-of-war to bring into port ships laden with provisions, and bound to an enemy's port.

Examples of all of which injuries he adduced, showing thirty-six claims for indemnity recovered, some of which were still unpaid; and one hundred and seventy claims for cargoes, or parts of cargoes unjustly seized; one hundred and three vessels detained at Bordeaux by embargo; for which acts of illegal detention or seizures, the claims amounted to many millions of livres.<sup>1</sup>

The third of March terminated the session, and the eight years' administration of George Washington.

The prominent events of Washington's second term were the proclamation of neutrality, the Pennsylvania insurrection, and the British treaty.

As soon as England was added to the list of the enemies of France, the lively interest which the great mass of Americans had taken in the French revolution, together with the hostility felt towards England, which neither time nor the haughtiness of the British Ministry had yet suffered to subside, strongly disposed a considerable portion of the people to take sides with France.

<sup>1</sup> III. State Papers, page 47.

National gratitude, they alleged, as well as the holy cause of liberty, required them to take this course. But Washington and his Cabinet, backed by the whole Federal party, and the sober-minded of all parties, reflecting on the serious evils of war, and the sure gains of neutrality, decided on preserving peace, if possible. Hence the proclamation of neutrality, which, whatever may be thought of the constitutional scruples of Madison (in his pamphlet under the signature of Helvidius), was, in its effects, as all now admit, a wise and beneficent measure.

The danger of war, however, did not then cease. The arts and address of Genet gave a fresh impetus to the popular zeal in behalf of the French, who, availing themselves of some provisions in the treaty of 1778, were able to give so much annoyance to British commerce, and so to strengthen their interest in the United States, as to incline the British Ministry to hostilities; it regarding open war with the United States as preferable to their one-sided neutrality. Hence the speech of Lord Dorchester to the Indians, which probably had the double purpose of securing the support of the savages, and of deterring the Americans from giving further cause of provocation.

The insults to the American administration into which the rash and too confident ardor of Genet betrayed him, together with the masterly arguments of Jefferson, enabled Washington to get rid of this troublesome envoy without offending a majority of the American people.

The disposition of the British Government to use its naval superiority to injure a foe now become as formidable as it was detested, then proved a new source of danger to the United States. To make this superiority more efficient, England decided on stepping over those neutral rights which stood in her way. The failure of the har-

vest in France compelled that nation to look abroad for supplies; and nowhere could they be obtained in such abundance and cheapness as in the United States, which, moreover, abounded in the means of transport. Hence the British orders in council of June and November, 1793, by which the neutral rights of the United States were grossly violated. The resentment which these wrongs excited in the whole Republican party, and all the Federalists whose patriotic pride was stronger than their party attachments, again threatened war with England. Hence the propositions to sequester and otherwise retaliate, in 1794. The administration, still bent on preserving peace, decided on a special mission to England, which resulted in the British treaty.

The very unequal terms of the treaty, together with the vehement opposition to it, produced by friendship to France, and resentment towards England, caused Washington to hesitate about the ratification, especially when he learned that Great Britain had renewed her orders in council. But the breach with Mr. Randolph, and the unsatisfactory course of Mr. Monroe, threw their weight into the doubtful balance, and decided the President on ratifying the treaty, unequal as it was.

The violations of neutral rights by France, of which there had been previously not a few examples, became then general, and almost co-extensive with her power. In pursuance of the same pacific policy which the interests of his country, just recovered from a desolating war of eight years, so strongly recommended, Washington was induced again to resort to negotiation, and General Pinckney was sent to France, as Mr. Jay had been sent to England, to try the effect of remonstrance, and an appeal to justice. What might have been the effect of Pinckney's mission, had Washington's administration con-



tinued, cannot now be known. But until this moment he had secured to his country the solid blessings of peace amid the perils which for four years had threatened it. Nor was there probably another individual in the United States who had at once the desire and ability to preserve pacific relations with both countries, the rulers of which had shown themselves to be almost as unscrupulous as they were powerful.

In the partial resistance to the excise laws which manifested itself in Pennsylvania, there was nothing which seriously threatened the Union, or the welfare of the Confederate States; but in showing the promptitude with which men of all parties would support the authority of the Government, even in measures which they did not wholly approve, this occurrence afforded very high gratification to the friends of the Federal Government, and especially to those who had previously entertained doubts of its competency to maintain law and order against strong popular resistance. In no State was the excise law more distasteful than in Virginia, both as to its objects, and its means of execution; yet in no State did men of all parties less hesitate to take up arms to quell the insurrection. Nay, even the Democratic Societies, which had been charged with bringing about this resistance to the laws by their inflammatory publications, came openly forward in opposition to the insurrection, and some of their members acted as volunteers in the army raised to put it down. Both friends and foes of the administration, at home and abroad, saw, in the measures which it adopted, an alacrity and efficiency which that Government had not been supposed to possess, and which promised to protect it equally from foreign and domestic foes.

It was fortunate for Washington's administration, and

for the welfare of the United States, that Jefferson and Hamilton were members of the Cabinet; and they contributed to these happy results by the qualities in which they differed, as well as by those in which they agreed. They both were eminent for their talents and political information; both at the head of their respective parties, zealous in support of their political principles, and of unwearied diligence in promoting them. Neither of them cordially approved the new Constitution, which, with their aid, was about to be tested by experiment. Here their resemblance ends. No two American citizens were more dissimilar in their political principles.

Jefferson was ardently attached to popular government, and had the most thorough conviction that the people of every civilized and intelligent community were competent to construct and to carry into execution their own system of polity. He considered that a government so formed was safer, wiser, and conferred more happiness than any other on a greater number. Hamilton had no such confidence. Having seen, in the politics of New York, and of other States, that majorities would sometimes trample on the rights of minorities; and, under the impulse of sudden feeling, would occasionally do that which was unwise or unjust, and of which they themselves would subsequently repent, he was desirous of providing an adequate control of a power which was so liable to be seriously abused. He thus became the honest advocate of a strong government which could repress or punish disorder; provide a revenue adequate to all emergencies; and go to war when justice or policy required. Hamilton disapproved of the new Constitution, because he thought it deficient in the controlling power which he deemed indispensable; but he was finally reconciled to it, because he thought, from the

resemblance of its structure to that of the British model, it might, if ably administered, gradually acquire the desired energy. Jefferson, on the other hand, objected to the new Constitution for this very similarity to a monarchical government; and, he lost no opportunity of opposing or counteracting every measure which tended to increase the resemblance that he deprecated.

The French revolution was, as we have seen, a further source of dissension with these statesmen. With such a radical difference of feelings and views, every attempt of one of them to carry into execution measures dictated either by his theoretical principles, or his national predilections, was assiduously and earnestly opposed by the other; and Washington, whose firmness was equal to his impartiality, decided between them. Thus, like the rowers on the opposite sides of an ancient ship-of-war or modern galley, their conflicting efforts, aided by the steady eye and hand of the helmsman, gave to the bark they impelled a direct onward progress which their separate exertions would have defeated.

These eminent men have been often compared and contrasted by their separate admirers, as to their talents, their services to their country, and their influence on succeeding generations.

When we consider the very early age at which Hamilton obtained distinction as a political writer; that, at thirty, he was associated with Madison and Jay in expounding and defending the new Federal Constitution; and that he was the ablest, as well as the largest contributor to that unrivalled commentary on our political system; when we further recollect the readiness and ability with which he wrote his numerous reports to Congress, we cannot hesitate to award to him the palm of superior genius over all his contemporaries.



Of the services of these statesmen, as well to the country as to the administration of which they were members, they both must be placed in the highest rank. Hamilton, at the head of the Treasury Department, subjected the finances of the nation — the collection, safe-keeping and distribution of its revenue, the duties and the responsibilities of all its fiscal officers — to a course of regulations so efficient and complete, as to have since undergone no material change. Jefferson, on his part, in his diplomatic correspondence generally, and especially with Genet and with Hammond, defended the rights and interests of his country with masterly ability. The decimal currency, of which he was the author, may claim to have rendered a more useful service to his country than any one of which his rival can boast. The saving of time and trouble which this improvement has already effected, it is not easy to estimate. On the score of official services, their merits may be regarded as not materially different.

But as to their influence on succeeding generations, there can be no comparison between them. Hamilton's political principles, gradually losing weight in this country, have now all but disappeared, except in a very small class, about as numerous, perhaps, as the disciples of Sir Robert Filmer, or of Hobbes,<sup>1</sup> in their day; while Jefferson's still flourish in undiminished vigor. His political maxims, exhibited in a form which the humblest capacity can understand and remember, have become familiar to every American, and have obtained the currency, and almost the weight of proverbs. He has added new force

<sup>1</sup> By this remark it is not intended to intimate that Hamilton approved the political principles of these defenders of despotism. He merely accorded with the more temperate and rational views of Blackstone and De Lolme.

to the prejudices of his countrymen against the artificial distinctions of rank ; and his denunciations of the abuses of power find an echo in the bosoms of the great mass of the American people. Being in accordance with the fundamental principles of our nature, they are transmitted from generation to generation, and are ever gaining new force and authority from time. They pervade the American mind as one of its elements, and can no more be separated from it, than solar heat or electricity from the atmosphere. If Hamilton's talents have modified the machinery of the Federal Government, Jefferson's more penetrating influence has acted on its incorporeal part — its soul — and consequently partakes of the same superiority over his rival's, that mind has over matter.

It is premature, after so short a trial as eight years, to speculate on the character of the Confederate Government which the people of these States had adopted — its merits and defects — for what human institution is free from fault? But we may say that, in this short period, it had more than realized the predictions of its friends. In that time, the number of its people had increased at the rate of three per cent. a year; and its wealth, by the united advantages of a fruitful soil, untiring industry, and a neutral commerce, had more than doubled that rate of increase. If we have no evidence that, in religion, morals, or literature, there was a correspondent advancement, we have since reason to know that, in all these indications of improvement, the nation has been steadily progressive.

We have now attended the remarkable career of George Washington for twenty-two years since he was called to command the armies of his country, contending first for their rights, and then for independence. After he had led them to victory, we have seen him presiding

over the deliberations of the sages who formed a national government adapted to their new condition : and lastly, we have seen him twice selected as the Chief Magistrate to carry that Constitution into effect. On all these occasions his merit received the testimony and the tribute, to which there is no parallel, of the unanimous vote of those by whom he was elected. Having thus fulfilled his noble destiny, he resigned the helm of State to other hands, apparently less skilful and prudent, and certainly less fortunate.



## APPENDIX.

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### No. I.

#### PATRICK HENRY'S RESOLUTIONS ON THE STAMP ACT.

THERE have been different versions of these celebrated resolutions of Patrick Henry on the Stamp Act. The following is the report of them, given, according to Mr. Wirt, by Mr. Henry himself, and found among his papers after his death. The fifth resolution was rescinded by the House of Burgesses on the day after it passed.

“Resolved, That the first adventurers and settlers of this, His Majesty's colony and dominion, brought with them and transmitted to their posterity, and all other His Majesty's subjects, since inhabiting in this, His Majesty's said colony, all the privileges, franchises, and immunities, that have been at any time, held, enjoyed, and possessed, by the people of Great Britain.

“Resolved, That by two royal charters, granted by King James the First, the colonists, aforesaid, are declared entitled to all the privileges, liberties, and immunities, of denizens and natural-born subjects, to all intents and purposes, as if they had been abiding and born within the realm of England.

“Resolved, That the taxation of the people by themselves, or by persons chosen by themselves to represent them, who can only know what taxes the people are able to bear, and the easiest mode of raising them, and are equally affected by such taxes themselves, is the distinguishing characteristic of British freedom, and without which the ancient Constitution cannot subsist.

“Resolved, That His Majesty's liege people of this most ancient colony, have uninterruptedly enjoyed the right of being thus governed by their own assembly in the article of their taxes and internal police, and that the same hath never been forfeited, or any other way given up, but hath been constantly recognized by the King and people of Great Britain.

"Resolved, therefore, That the General Assembly of this colony have the sole right and power to lay taxes and impositions upon the inhabitants of this colony; and that every attempt to vest such power in any person or persons whatsoever, other than the General Assembly aforesaid, has a manifest tendency to destroy British as well as American freedom."

On the back of the paper containing those resolutions is the following endorsement, which is also in the handwriting of Mr. Henry himself:

"The within resolutions passed the House of Burgesses in May, 1765. They formed the first opposition to the stamp act, and the scheme of taxing America by the British Parliament. All the colonies, either through fear, or want of opportunity to form an opposition, or from influence of some kind or other, had remained silent.

"I had been for the first time elected a Burgess, a few days before, was young, inexperienced, unacquainted with the forms of the House, and the members that composed it. Finding the men of weight averse to opposition, and the commencement of the tax at hand, and that no person was likely to step forth, I determined to venture, and, alone, unadvised, and unassisted, on a blank leaf of an old law-book<sup>1</sup> wrote the within. Upon offering them to the House, violent debates ensued. Many threats were uttered, and much abuse cast on me, by the party for submission. After a long and warm contest, the resolutions passed by a very small majority, perhaps of one or two only. The alarm spread throughout America with astonishing quickness, and the ministerial party were overwhelmed. The great point of resistance to British taxation was universally established in the colonies.

"This brought on the war which finally separated the two countries, and gave independence to ours. Whether this will prove a blessing or a curse, will depend upon the use our people make of the blessings which a gracious God hath bestowed on us. If they are wise, they will be great and happy. If they are of a contrary character, they will be miserable. Righteousness alone can exalt them as a nation.

"Reader! Whosoever thou art, remember this; and in thy sphere, practise virtue thyself, and encourage it in others. P. HENRY."

<sup>1</sup> Judge Tyler says, "an old Coke upon Littleton."

## No. II.

### A DECLARATION BY THE REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN CONGRESS ASSEMBLED.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these, are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:



He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained ; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature ; a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected ; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise ; the State remaining, in the mean time, exposed to all the danger of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States ; for that purpose, obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws ; giving his assent to their acts of pretended legislation :

For quartering large bodies of armed troops among us :

For protecting them, by a mock trial, from punishment, for any murders which they should commit on the inhabitants of these States :

• For cutting off our trade with all parts of the world :

For imposing taxes on us without our consent :

For depriving us, in many cases, of the benefits of trial by jury :

For transporting us beyond seas to be tried for pretended offences :

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies :

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the powers of our governments :

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction, of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress, in the most humble terms ; our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and

correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, onemies in war, in peace, friends.

We, therefore, the representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the World for the rectitude of our intentions, do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, *Free and Independent States*; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain, is, and ought to be, totally dissolved; and that, as *FREE AND INDEPENDENT STATES*, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which *INDEPENDENT STATES* may of right do. And, for the support of this declaration, with a firm reliance on the protection of *DIVINE PROVIDENCE*, we mutually pledge to each other, our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members :

JOHN HANCOCK.

*New Hampshire.*

Josiah Bartlett,  
William Whipple,  
Matthew Thornton.

*Connecticut.*

Roger Sherman,  
Samuel Huntington,  
William Williams,  
Oliver Wolcott.

*Massachusetts Bay.*

Samuel Adams,  
John Adams,  
Robert Treat Paine,  
Elbridge Gerry.

*New York.*

William Floyd,  
Philip Livingston,  
Francis Lewis,  
Lewis Morris.

*Rhode Island.*

Stephen Hopkins,  
William Ellery.

*New Jersey.*

Richard Stockton,  
John Witherspoon,  
Francis Hopkinson,  
John Hart,  
Abraham Clark.



*Pennsylvania.*

Robert Morris,  
Benjamin Rush,  
Benjamin Franklin,  
John Morton,  
George Clymer,  
James Smith,  
George Taylor,  
James Wilson,  
George Ross.

*Delaware.*

Cæsar Rodney,  
George Read,  
Thomas M'Kean.

*Maryland.*

Samuel Chase,  
William Paca,  
Thomas Stone,  
Charles Carroll, of Carrollton.

*Virginia.*

George Wythe,  
Richard Henry Lee,  
Thomas Jefferson,  
Benjamin Harrison,  
Thomas Nelson, jun.  
Francis Lightfoot Lee,  
Carter Braxton.

*North Carolina.*

William Hooper,  
Joseph Hewes,  
John Penn.

*South Carolina.*

Edward Rutledge,  
Thomas Heyward, jun.  
Thomas Lynch, jun.  
Arthur Middleton.

*Georgia.*

Button Gwinnett,  
Lyman Hall,  
George Walton.

Resolved, That copies of the Declaration be sent to the several assemblies, conventions, and committees, or councils of safety, and to the several commanding officers of the continental troops; that it be proclaimed in each of the United States, and at the head of the army.

## No. III.

### ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES.

TO ALL TO WHOM THESE PRESENTS SHALL COME, WE THE UNDERSIGNED DELEGATES OF THE STATES AFFIXED TO OUR NAMES, SEND GREETING. — Whereas the Delegates of the United States of America in Congress assembled did on the 15th day of November in the Year of our Lord 1777, and in the Second year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts-bay, Rhode-island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, in the words following, viz.

“ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES OF NEW-HAMPSHIRE, MASSACHUSETTS-BAY, RHODE-ISLAND AND PROVIDENCE PLANTATIONS, CONNECTICUT, NEW-YORK, NEW-JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, NORTH-CAROLINA, SOUTH-CAROLINA, AND GEORGIA.

ARTICLE I. The Stile of this confederacy shall be “The United States of America.”

ARTICLE II. Each state retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the united states, in congress assembled.

ARTICLE III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, bind-

ing themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ARTICLE IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from Justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restriction shall not extend so far as to prevent the removal of property imported into any state, to any other state of which the owner is an inhabitant; provided also that no imposition, duties or restriction shall be paid by any state, on the property of the united states, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from Justice, and be found in any of the united states, he shall upon demand of the Governor or executive power, of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts and judicial proceedings of the courts and magistrates of every other state.

ARTICLE V. For the more convenient management of the general interest of the united states, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the first Monday in November, in every year, with a power reserved to each state, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the Year.

No state shall be represented in congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the united states, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each state shall maintain its own delegates in any meeting of the states, and while they act as members of the committees of the states.



In determining questions in the united states, in congress assembled, each state shall have one vote.

Freedom of speech and debate in congress shall not be impeached or questioned in any Court, or place out of congress, and the members of congress shall be protected in their persons from arrests and imprisonments, during their time of going to and from, and attendance on congress, except for treason, felony, or breach of the peace.

ARTICLE VI. No state without the Consent of the united states in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any King, prince or state; nor shall any person holding any office of profit or trust under the united states, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall the united states in congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation or alliance whatever between them, without the consent of the united states in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the united states in congress assembled, with any king, prince or state, in pursuance of any treaties already proposed by congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any state, except such number only, as shall be deemed necessary by the united states in congress assembled, for the defence of such state, or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only, as in the judgment of the united states, in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and have constantly ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No state shall engage in any war without the consent of the united states in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the united states in congress assembled can be consulted: nor shall any state grant commissions

to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the united states in congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the united states in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the united states in congress assembled shall determine otherwise.

ARTICLE VII. When land-forces are raised by any state for the common defence, all offices of or under the rank of colonel, shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

ARTICLE VIII. All charges of war, and all other expenses that shall be incurred for the common defence, or general welfare, and allowed by the united states in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any Person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the united states in congress assembled, shall from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the united states in congress assembled.

ARTICLE IX. The united states in congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the 6th article — of sending and receiving ambassadors — entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods, or commodities whatsoever — of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the united states shall be divided or appropriated — of granting letters of marque and reprisals in times of peace — appointing courts for the trials of piracies

and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.

The united states in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction or any other cause whatsoever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, congress shall name three persons out of each of the united states, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as congress shall direct, shall in the presence of congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried, "well and truly to hear and determine the matter



in question, according to the best of his judgment, without favour, affection or hope of reward :” provided also that no state shall be deprived of territory for the benefit of the united states.

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the congress of the united states, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The united states in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states — fixing the standard of weights and measures throughout the united states — regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated — establishing or regulating post-offices from one state to another, throughout all the united states, and exacting such postage on the papers passing thro’ the same as may be requisite to defray the expenses of the said office — appointing all officers of the land forces in the service of the united states, excepting regimental officers — appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the united states — making rules for the government and regulation of the said land and naval forces, and directing their operations.

The united states in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated “A Committee of the States,” and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction — to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of Money to be raised for the service of the united states, and to appropriate and apply the same for defraying the public expenses — to borrow money, or emit bills on the credit of the united states, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted, — to build and equip a navy — to agree upon the number of land forces, and to make requisitions from each state for its

quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men and cloath, arm and equip them in a soldier like manner, at the expense of the united states; and the officers and men so cloathed, armed and equipped shall march to the place appointed, and within the time agreed on by the united states in congress assembled: But if the united states in congress assembled shall, on consideration of circumstances judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, cloathed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise officer, cloath, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so cloathed, armed and equipped, shall march to the place appointed, and within the time agreed on by the united states in congress assembled.

The united states in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the united states, or any of them, nor emit bills, nor borrow money on the credit of the united states, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the united states in congress assembled.

The Congress of the united states shall have power to adjourn to any time within the year, and to any place within the united states, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the Journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the Journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request shall be furnished with a transcript of the said Journal, except such parts as are above excepted, to lay before the legislatures of the several states.

ARTICLE X. The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the united states in congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the united states assembled is requisite.

ARTICLE XI. Canada acceding to this confederation, and joining in the measures of the united states, shall be admitted into and entitled to all the advantages of this union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

ARTICLE XII. All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of congress, before the assembling of the united states, in pursuance of the present confederation, shall be deemed and considered as a charge against the united states, for payment and satisfaction whereof the said united states, and the public faith are hereby solemnly pledged.

ARTICLE XIII. Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation is submitted to them. And the Articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterwards confirmed by the legislatures of every state.

*And Whereas* it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. Know Ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the united states in congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In witness whereof we have hereunto set our hands in congress. Done at



Philadelphia in the state of Pennsylvania the 9th Day of July in the Year of our Lord, 1778, and in the 3d year of the Independence of America.

Josiah Bartlett, John Wentworth, jun., August 8th, 1778,	} On the part and behalf of the state of New Hampshire.
John Hancock, Samuel Adams, Elbridge Gerry, Francis Dana, James Lovell, Samuel Holten,	} On the part and behalf of the state of Massachusetts-Bay.
William Ellery, Henry Marchant, John Collins,	} On the part and behalf of the state of Rhode-Island and Providence Plantations.
Roger Sherman, Samuel Huntington, Oliver Wolcott, Titus Hosmer, Andrew Adam,	} On the part and behalf of the state of Connecticut.
Jas Duane, Fras Lewis, William Duer, Gouv <sup>r</sup> Morris,	} On the part and behalf of the state of New-York.
Jn <sup>e</sup> Witherspoon, Nath <sup>l</sup> Scudder,	} On the part and behalf of the state of New-Jersey, November 26th, 1778.
Rob <sup>t</sup> Morris, Daniel Roberdeau, Jon <sup>a</sup> Bayard Smith, William Clingan, Joseph Reed, 22d July, 1778,	} On the part and behalf of the state of Pennsylvania.
Tho. M <sup>c</sup> Kean, Feb. 12, 1779, John Dickinson, May 5, 1779, Nicholas Van Dyke,	} On the part and behalf of the state of Delaware.
John Hanson, March 1st, 1781, Daniel Carroll, March 1st, 1781,	} On the part and behalf of the state of Maryland.
Richard Henry Lee, John Banister, Thomas Adams, Jn <sup>e</sup> Harvie, Francis Lightfoot Lee,	} On the part and behalf of the state of Virginia.
John Penn, July 21st, 1778, Corns Harnett, Jn <sup>e</sup> Williams,	} On the part and behalf of the state of North-Carolina.
Henry Laurens, William Henry Drayton, Jn <sup>e</sup> Matthews, Richd Hutson, Thos. Heyward, jun.	} On the part and behalf of the state of South-Carolina.
Jn <sup>e</sup> Walton, 24th July, 1778. Edw <sup>d</sup> Telfair, Edw <sup>d</sup> Langworthy,	} On the part and behalf of the state of Georgia.

## No. IV.

### AN ORDINANCE FOR THE GOVERNMENT OF THE TERRITORY OF THE UNITED STATES, NORTH-WEST OF THE RIVER OHIO.

*Be it ordained by the United States in Congress assembled,* That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

*Be it ordained by the authority aforesaid,* That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to and be distributed among their children and the descendants of a deceased child, in equal parts; the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have in equal parts among them their deceased parent's share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be, (being of full age,) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyance be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskias, Saint Vincent's,

and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them relative to the descent and conveyance of property.

*Be it ordained by the authority aforesaid,* That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the General Assembly therein, unless disapproved of by Congress; but afterwards, the legislature shall have authority to alter them as they shall think fit.

The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the General Assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.



For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the General Assembly; provided that, for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the legislature; provided that no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years, and in either case shall likewise hold in his own right, in fee-simple, two hundred acres of land within the same: provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected shall serve for the term of two years, and, in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member to elect another in his stead, to serve for the residue of the term.

The General Assembly, or Legislature, shall consist of the Governor, Legislative Council, and a House of Representatives. The Legislative Council shall consist of five members, to continue in office five years, unless sooner removed by Congress, any three of whom to be a quorum, and the members of the Council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the Governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall hap-

pen in the council, by death or removal from office, the House of Representatives shall nominate two persons qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of Council, the said House shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the Council five years, unless sooner removed. And the Governor, Legislative Council, and House of Representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the House, and by a majority in the Council, shall be referred to the Governor for his assent: but no bill or legislative act whatever shall be of any force without his assent. The Governor shall have power to convene, prorogue, and dissolve the General Assembly, when, in his opinion, it shall be expedient.

The Governor, Judges, Legislative Council, Secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the Governor before the President of Congress, and all other officers before the Governor. As soon as a Legislature shall be formed in the district, the Council and House assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of States, and permanent government therein, and for their admission to a share in the Federal Councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

*It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:*

ARTICLE 1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship, or religious sentiments, in the said territory.

ARTICLE 2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the Legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate, and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with, or affect private contracts or engagements, bona fide, and without fraud previously formed.

ARTICLE 3. Religion, morality, and knowledge, being necessary to good government, and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorised by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE 4. The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States, in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the Legislatures of the district or districts, or new States, as in the original States, within the time agreed upon by the United States, in Congress assembled. The Legislatures of those districts, or new States, shall never interfere with the primary disposal



of the soil by the United States, in Congress assembled, nor with any regulations Congress may find necessary, for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the Confederacy, without any tax, impost, or duty therefor.

ARTICLE 5. There shall be formed in the said territory not less than three, nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: the Western State in the said territory shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The Middle States shall be bounded by the said direct line, the Wabash, from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The Eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: provided, however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government; provided the constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

ARTICLE 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof

the party shall have been duly convicted; provided, always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

*Be it ordained by the authority aforesaid,* That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed, and declared null and void.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the 12th.

CHARLES THOMSON, *Sec'y.*

## No. V.

### CONSTITUTION OF THE UNITED STATES OF AMERICA.

WE the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America.

#### ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey



four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled, in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall fill such vacancies.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 4. The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the

Legislature thereof; but the Congress may, at any time, by law make or alter such regulations, except as to the places of choosing Senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION 5. Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to or returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.

SECTION 7. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States: if he approve he shall sign it; but if not, he shall

return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8. The Congress shall have power

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes:

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the United States:

To establish post-offices and post-roads:

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the Supreme Court:



To define and punish piracies and felonies committed on the high seas, and offences against the law of nations :

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water :

To raise and support armies ; but no appropriation of money to that use shall be for a longer term than two years :

To provide and maintain a navy :

To make rules for the government and regulation of the land and naval forces :

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions :

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress :

To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings : and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof.

SECTION 9. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight ; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any State.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another : nor shall vessels

bound to or from one State, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince, or foreign state.

SECTION 10. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships-of-war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

SECTION 1. The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.

The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them.

Before he enters on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States."

SECTION 2. The President shall be Commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers, and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may, by law, vest the appointment of such inferior officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have power to fill up all vacancies that may hap-



pen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECTION 3. He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient: he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive Ambassadors, and other public Ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION 4. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

#### ARTICLE III.

SECTION 1. The Judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may, from time to time, ordain and establish. The Judges, both of the Supreme and inferior Courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION 2. The Judicial Power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting Ambassadors, other public Ministers, and Consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

In all cases affecting Ambassadors, other public Ministers, and Consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes

shall have been committed ; but when not committed within any State, the trial shall be at such place or places as the Congress may, by law, have directed.

SECTION 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open Court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

#### ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive Authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to labor or service in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION 3. New States may be admitted by the Congress into this Union ; but no new State shall be formed or erected within the jurisdiction of any other State ; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States ; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECTION 4. The United States shall guarantee to every State in this

Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

#### ARTICLE V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress : provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the First Article ; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

#### ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof ; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land ; and the Judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before-mentioned, and the Members of the several State Legislatures, and all Executive and Judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution ; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

#### ARTICLE VII.

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.



Done in Convention by the unanimous consent of the States present the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. *In witness whereof,* we have hereunto subscribed our names,

GEO. WASHINGTON,

*President and Deputy from Virginia.*

#### NEW HAMPSHIRE.

JOHN LANGDON,

NICHOLAS GILMAN.

#### MASSACHUSETTS.

NATHANIEL GORHAM,

RUFUS KING.

#### CONNECTICUT.

WM. SAML. JOHNSON,

ROGER SHERMAN.

#### NEW YORK.

ALEXANDER HAMILTON.

#### NEW JERSEY.

WIL: LIVINGSTON,

DAVID BREARLEY.

WM. PATERSON,

JONA: DAYTON.

#### PENNSYLVANIA.

B. FRANKLIN,

THOMAS MIFLIN,

ROBT. MORRIS,

GEO: CLYMER,

THO: FITZSIMONS,

JARED INGERSOLL,

JAMES WILSON,

GOUV: MORRIS.

#### DELAWARE.

GEO: READ,

GUNNING BEDFORD, Jun'r.

JOHN DICKINSON,

RICHARD BASSETT.

JACO: BROOM,

#### MARYLAND.

JAMES M'HENRY,

DAN: OF ST. THOS. JENIFER.

DANL. CARROLL,

#### VIRGINIA.

JOHN BLAIR,

JAMES MADISON, Jr.

#### NORTH CAROLINA.

WM. BLOUNT,

RICH'D DOBBS SPAIGHT.

HU. WILLIAMSON,

## SOUTH CAROLINA.

J. RUTLEDGE,

CHARLES COTESWORTH PINCKNEY,

CHARLES PINCKNEY,

PIERCE BUTLER.

## GEORGIA.

WILLIAM FEW,

ABR. BALDWIN.

Attest :

WILLIAM JACKSON, *Secretary*.

## AMENDMENTS

TO THE

## CONSTITUTION OF THE UNITED STATES.

## ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

## ARTICLE II.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

## ARTICLE III.

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in manner to be prescribed by law.

## ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject

for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation

#### ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

#### ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

#### ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### ARTICLE IX.

The enumeration, in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

#### ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.



## No. VI.

### RATIFICATION OF THE CONSTITUTION BY THE SEVERAL STATES.

THE Constitution was adopted on the 17th of September, 1787, by the Convention appointed in pursuance of the resolution of the Congress of the Confederation of the 21st of February, 1787, and was ratified by the Conventions of the several States, as follows, viz. :

By Convention of Delaware,	on the	7th December,	1787.
" "	Pennsylvania,	"	12th December, 1787.
" "	New Jersey,	"	18th December, 1787.
" "	Georgia,	"	2d January, 1788.
" "	Connecticut,	"	9th January, 1788.
" "	Massachusetts,	"	6th February, 1788.
" "	Maryland,	"	28th April, 1788.
" "	South Carolina,	"	23d May, 1788.
" "	New Hampshire,	"	21st June, 1788.
" "	Virginia,	"	26th June, 1788.
" "	New York,	"	26th July, 1788.
" "	North Carolina,	"	21st November, 1789.
" "	Rhode Island,	"	29th May, 1790.

## No. VII.

### THE SETTLEMENT OF VERMONT.

ALL the British settlements in North America, except Pennsylvania, had encountered the early hostility either of Indians or the colonies of other European Powers ; but the people of Vermont had been involved in civil strife with their brethren of other colonies or States from its first settlement until its admission into the Union. The history of its several controversies is a tangled web, which we shall now endeavor briefly to unravel.

The territory which constitutes the State of Vermont, lying on the western bank of the Connecticut, between New England, New York, and Canada, long remained to those colonies an unsettled frontier. Its first settlement was at Fort Dummer, made by Massachusetts, in 1724. One of those questions about boundary, so common at that period, had previously existed between Massachusetts and New Hampshire, and the question was finally settled in 1740 by the King in council, who decided the settlement of Fort Dummer to be within the jurisdiction of New Hampshire.

The lands in the vicinity, between the Connecticut and Lake Champlain, being very fertile, soon attracted settlers, who were so encouraged by the Governor of New Hampshire, Benning Wentworth, that, in 1749, he there granted a township of six miles square, to which he gave the name of Bennington.

Governor Clinton, of New York, claiming the Connecticut as the eastern boundary of New York, under the charter of Charles the 'Second to the Duke of York, considered Bennington to be within the jurisdiction of that province. Wentworth, however, justified the grants he had made to the west of the Connecticut, by the examples of Massachusetts and Connecticut. Clinton replied that Connecticut was warranted in the extension of her line by an express agreement with New York, made with the royal sanction ; and that Massachusetts, as he presumes, had obtained the lands in her possession by intrusion, and had continued in possession by the negligence of New York.

The two Governors then agreed to refer the matter to the royal decision ; but without waiting for that decision, Wentworth continued to make new grants, and, in the course of four or five years, he granted several similar townships. During the war of 1754, between Great Britain and France, all further grants were suspended ; but, after the peace, when Canada became a British province, these settlements were so much encouraged, that, in 1761, the number of these townships amounted to sixty ; by the fees for which, and the land reserved to the Governor in each township, Wentworth amassed a large fortune.

Meanwhile, the conflicting claims of New York and New Hampshire were revived with spirit after the peace, and, in 1763 and 1764, they were supported by the proclamations of the respective Governors, when, in July, 1764, the controversy was decided by the King in council in favor of New York. All the grants which had been made by Wentworth, lying to the west of the Connecticut, were thus within the jurisdiction of New York ; and the Government of that province, giving to the royal decision a retrospective operation, maintained that the New Hampshire grants were void. It therefore laid off the district into counties, and proceeded to make new grants of the lands. In the alarm and confusion which this measure produced among the New Hampshire grantees, the more timid yielded to the authority of New York, but the greater number resisted ; and mobs and riots, sometimes attended with bloodshed, gradually matured into an organized opposition to the course of New York, which the grantees regarded as equally unjust and oppressive. On this occasion, Ethan Allen and Seth Warner took the lead. Deputies were chosen by the grantees to represent their grievances to the British Government. They were favorably heard, and in 1767 the province of New York was prohibited from making any further grant of lands in the disputed territory.

It seems, however, that the grants of these lands was too profitable both to those who made, and those who received them, to be discontinued in obedience to the royal mandate. The courts of New York, moreover, attempted to enforce her grants, and the New Hampshire grantees continued to resist them by open acts of violence. This state of hostility was at its height when the Revolution broke out, and diverted the minds of the disputants to a yet more serious contest. Congress then became the umpire to which both parties looked.

In January, 1776, the New Hampshire grantees met in convention, and prepared a petition to Congress, in which they offered to contribute their full quotas towards the war ; but they declared their unwillingness to be subjected to the Government of New York. The committee



of Congress to whom the subject was referred recommended to the grantees a submission to New York. This recommendation had no other effect than to excite discontent. The grantees held several other meetings, and in January, 1777, a general convention of the towns on both sides of the Green Mountains met at Westminster, and then declared themselves independent, under the name of "*New Connecticut alias Vermont.*" They drew up a petition to Congress, asking to be admitted into the Union, and appointed Deputies to present and enforce it. In the following July, they formed a constitution for their self-created State.

Their application was actively opposed by New York; and in June, Congress passed resolutions unfavorable to the Vermont petitioners, and dismissed their petition.

The State of New Hampshire had hitherto seemed favorable to the claim of her grantees to a separate independence, but her friendly sentiments now underwent a change. A portion of her inhabitants (sixteen towns) east of the Connecticut were desirous of uniting themselves with those on the west, and petitioned the Assembly of Vermont to receive them. Their application having been favorably received, they announced to New Hampshire that they had withdrawn from its jurisdiction. This attempt was followed by other combinations and projects of division, which threatening danger and embarrassment, the people of Vermont deemed it prudent to separate themselves from their recent associates, the sixteen eastern towns. But the people of New Hampshire, alienated from Vermont by her previous course, applied, in 1780, to Congress to re-annex the whole of Vermont to their State; and New York made a similar application for herself. Massachusetts now also put in a claim to a part of Vermont, so that there were, at this time, no less than four claims to her lands. Congress was unable to adjust their rival pretensions, but was evidently opposed to her separate sovereignty. The majority of the people, however, firmly asserted her rights, and resenting the supposed ill-treatment of Congress, became indifferent to admission into the Union, saddled as it was with a heavy public debt.

Some British officers, informed of this change of feeling in Vermont, made overtures, in 1780 and 1781, to Ethan Allen and other leading men in Vermont, to re-unite themselves with Great Britain. Allen returned no answer to these overtures, and finally communicated them to Congress. The course of some of the other Vermonters, purposely of an ambiguous character, afforded to the British agents lively hopes of success. This temporizing policy was subsequently justified by the

feeble condition of Vermont, and its exposure to the power of the British in Canada. The justification seems to have been deemed satisfactory by the people of Vermont.

An apparent vacillation, at this time, in the policy both of that State and of Congress is plainly referable to the circumstances already mentioned.

After Vermont had terminated her connection with the eastern towns of New Hampshire, finding her claims to independence still thwarted, both by that State and New York, she determined to retaliate their policy, by inviting portions of those States to unite with her; and her efforts met with partial success in both States, aided as they were by British agents, and by all the disaffected: and though Congress had hitherto steadily opposed the independence of Vermont, yet, when they found that British agents were endeavoring to make it a British province, they, in August, 1781, appointed a committee to confer with the people of Vermont on the terms of their admission into the Union. By another resolution, passed a fortnight later, they required Vermont, before her admission, to relinquish all claims to lands or jurisdiction east of the Connecticut.

This last resolution produced, at first, some discontent in Vermont, but was finally assented to, owing, in part, to the seasonable interposition of General Washington; and the Legislature appointed agents to negotiate with Congress the terms of their admission into the Union. But Congress then returned to its former policy, and the proposition, in April, 1782, to admit Vermont, was negatived. Great discontent was produced in Vermont by this vote; but it seems to have been manifested by no important measure. In December of that year, Congress passed a vote of censure on Vermont for extending its jurisdiction over citizens of New York; to which measure of Congress, first the Governor and Council, and subsequently the Legislature of Vermont, responded by a spirited remonstrance.

Though the peace put an end to these bickerings, they had cooled the desire of Vermont to enter the Union. Matters so remained until 1789, when New York, anxious to strengthen the new government, and hoping to be its seat, passed a law by which it assented to the admission of Vermont into the Union, on condition that she would pay to New York thirty thousand dollars, to indemnify her grantees. Vermont acceded to the proposal, and the chief difficulty being now removed, Congress, in 1791, passed a law for admitting Vermont in the Confederacy; and thus, in spite of the united opposition of New York and New Hampshire, of their own intestinal dissensions, and the seduc-

tions of British power, the inhabitants of the "New Hampshire Grants" finally attained the political condition they had so eagerly coveted, and through such various difficulties had so wisely and firmly maintained.

Those who would wish to obtain fuller details of this interesting portion of American annals, may find them in Williams's History of Vermont, Slade's Vermont State Papers, and the fourth volume of the Documentary History of New York.

THE END OF THE FIRST VOLUME.





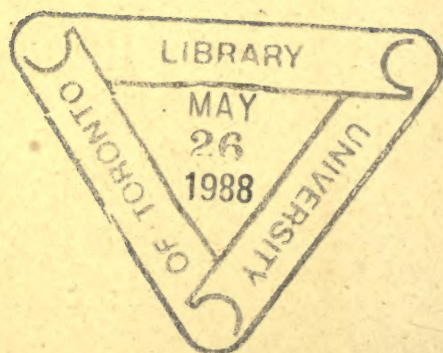














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